

LEWIS, D'AMATO, BRISBOIS & BISGAARD
DAVID B. PARKER
GRAHAM E. BERRY
JAYESH PATEL
221 North Figueroa Street, Suite 1200
Los Angeles, California 90012
(213) 250-1800

JOSEPH A. YANNY, ESQ.
1925 Century Park East
Suite 1260
Los Angeles, California 90067
(213) 551-2966

COPY

Attorneys for Amicus Curiae JOSEPH A. YANNY, an individual and
JOSEPH A. YANNY, a Professional Law Corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

RECEIVED

MAR 17 1992

HUB LAW OFFICES

CHURCH OF SCIENTOLOGY)	No. 152229
INTERNATIONAL, A California)	
not-for-profit religious)	DECLARATION OF GRAHAM E. BERRY
corporation,)	TO ALL EVIDENCE IN SUPPORT OF
Plaintiff,)	AMICUS CURIAE BRIEF IN
vs.)	OPPOSITION TO PLAINTIFF'S ORDER
GERALD ARMSTRONG and DOES 1)	TO SHOW CAUSE RE PRELIMINARY
through 25, inclusive,)	INJUNCTION; EXHIBITS A THROUGH
Defendants.)	BB TO THE DECLARATION OF GRAHAM
	E. BERRY IN SUPPORT OF AMICUS
	CURIAE BRIEF
	DATE: March 20, 1992
	TIME: 9:00 a.m.
	DEPT: 4

[Filed Concurrently With Joseph
A. Yanny's Amicus Curiae Brief;
Appendix of Authorities In
Support of Amicus Curiae Brief;
Declaration of Graham E. Berry
(Exhibits CC, DD); Declarations
of Gerald Armstrong;
Declarations of Michael J.
Flynn, Esq.]

DECLARATION OF GRAHAM E. BERRY

I, GRAHAM E. BERRY, declare:

1. I am an attorney duly licensed to practice in the State of California and am a member of the law firm of Lewis, D'Amato, Brisbois & Bisgaard, attorneys of record for Petitioners Joseph A. Yanny, an individual, and Joseph A. Yanny, a Professional Law Corporation ("Yanny") in this action.

2. I have personal knowledge of the facts contained in this Declaration and could and would competently testify to those facts if called upon to do so.

3. This Declaration is offered in support of Joseph A. Yanny's Amicus Curiae Brief in Opposition to Plaintiff's Order to Show Cause Re Preliminary Injunction.

4. Attached hereto as Exhibit A is a true and correct copy of Reporter's Partial Transcript, dated August 6, 1991, reported by Linda Staley, CSR No. 3359.

5. Attached hereto as Exhibit B is a true and correct copy of Reporter's Transcript of Proceedings, dated March 3, 1992, reported by Deborah S. Bartunek, CSR No. 4822.

6. Attached hereto as Exhibit C is a true and correct copy of a Letter from Graham E. Berry, Esq. to Laurie J. Bartilson, Esq., dated March 13, 1992.

7. Attached hereto as Exhibit D is a true and correct copy of L. Ron Hubbard, Technique 88, "On Control and Lying".

8. Attached hereto as Exhibit E is a true and correct copy of Memorandum of Intended Decision, dated June 22, 1984, in Armstrong I.

1 9. Attached hereto as Exhibit F is a true and correct copy
2 of excerpts from John Atack's "A Piece of Blue Sky, Scientology,
3 Dianetics and L. Ron Hubbard Exposed", including Chapter Five.

4 10. Attached hereto as Exhibit G is a true and correct copy
5 of excerpts from John Atack's "A Piece of Blue Sky, Scientology,
6 Dianetics and L. Ron Hubbard Exposed", including Chapter Two.

7 11. Attached hereto as Exhibit H is a true and correct copy
8 of a Letter from Gerald Armstrong to Eric M. Lieberman, Esq., dated
9 August 21, 1991.

10 12. Attached hereto as Exhibit I is a true and correct copy
11 of James B. Stewart, Jr.'s "Scientology's War Against Judges", dated
12 December 1980.

13 13. Attached hereto as Exhibit J is a true and correct copy
14 of "Misconduct by Judge Alleged in Scientology Suit", by Robert
15 Welkos, Times Staff Writer, Los Angeles Times, dated September 20,
16 1988.

17 14. Attached hereto as Exhibit K is a true and correct copy
18 of excerpts from John Atack's "A Piece of Blue Sky, Scientology,
19 Dianetics and L. Ron Hubbard Exposed", including Chapter One.

20 15. Attached hereto as Exhibit L is a true and correct copy
21 of Mutual Release of All Claims and Settlement Agreement, dated
22 December 6, 1986.

23 16. Attached hereto as Exhibit M is a true and correct copy
24 of Settlement Agreement, delineating dates from December 4, 1986 to
25 December 20, 1986.

26 17. Attached hereto as Exhibit N is a true and correct copy
27 of Minute Order, dated December 12, 1986.

28 18. Attached hereto as Exhibit O is a true and correct copy

1 of Order Dismissing Action With Prejudice, dated December 11, 1986.

2 19. Attached hereto as Exhibit P is a true and correct copy
3 of Reporter's Transcript of Proceedings, dated December 11, 1986,
4 reported by Nancy L. Harris, CSR No. 644.

5 20. Attached hereto as Exhibit Q is a true and correct copy
6 of Reporter's Transcript of Proceedings, dated December 23, 1991,
7 reported by Herbert Cannon, CSR No. 1923.

8 21. Attached hereto as Exhibit R is a true and correct copy
9 of Complaint for False Imprisonment; Intentional Infliction of
10 Emotional Distress; Negligent Infliction of Emotional Distress; Loss
11 of Consortium; Conspiracy; Breach of Contract; Restitution; Fraud;
12 Invasion of Privacy; Breach of Statutory Duty to Pay Minimum Wages and
13 Overtime [Cal. Lab. C. §1194]; and Constructive Fraud, dated April 1,
14 1988, in Aznaran v. Church of Scientology of California, Inc., et al.,
15 Case No. CV 88-1786 WDK (Ex).

16 22. Attached hereto as Exhibit S is a true and correct copy
17 of Defendants' "Meet & Confer" Statement Regarding Defendants' Noticed
18 Depositions of John J. Quinn, William T. Drescher and Laurie J.
19 Bartilson and the Custodian of Records of Their Respective Law Firms,
20 dated February 20, 1992, in Yanny II.

21 23. Attached hereto as Exhibit T is a true and correct copy
22 of Verified Complaint for Damages and For Temporary, Preliminary and
23 Permanent Injunctive Relief for Breach of Fiduciary Duty, dated July
24 18, 1991, in Yanny II.

25 24. Attached hereto as Exhibit U is a true and correct copy
26 of Defendants' Verified First Amended Answer to Plaintiffs' Verified
27 Complaint; Demand for Jury Trial, dated January 22, 1982, in Yanny II.

28 25. Attached hereto as Exhibit V is a true and correct copy

1 of Eye's Only, Top Secret, "Project Quaker, (Refer to the persons
2 concerned as 'the friends')".

3 26. Attached hereto as Exhibit W is a true and correct copy
4 of Hubbard Communications Office, HCO Policy Letter of 18 October
5 1967, Issue IV, "Penalties for Lower Conditions".

6 27. Attached hereto as Exhibit X is a true and correct copy
7 of "Re: Books, etc., Written About Scientology By SPs", dated October
8 7, 1971.

9 28. Attached hereto as Exhibit Y is a true and correct copy
10 of a Scientology Letter to "Michael", dated May 20, 1975, re burglary,
11 and breaking and entering.

12 29. Attached hereto as Exhibit Z is a true and correct copy
13 of Sentencing Memorandum of the United States of America, dated
14 December 16, 1980, in United States v. Jane Kember, U.S.D.C., District
15 of Columbia, Criminal No. 78-401(2) & (3).

16 30. Attached hereto as Exhibit AA is a true and correct
17 copy of "Int Hatting: The Strike", dated October 17, 1971.

18 31. Attached hereto as Exhibit BB is a true and correct
19 copy of Declaration of Joseph A. Yanny, dated July 13, 1988.

20 32. Attached under separate cover entitled "Exhibit CC to
21 the Declaration of Graham E. Berry" is a true and correct copy of
22 Stipulation of Evidence, U.S. v. Hubbard, et al., U.S.D.C. for the
23 District of Columbia, Criminal No. 78-401, dated October 1979.

24 33. Attached under separate cover entitled "Exhibit DD to
25 the Declaration of Graham E. Berry" is a true and correct copy of
26 Notice of Motion and Motion to Enforce Settlement Agreement; for
27 Liquidated Damages and to Enjoin Future Violations, dated October 3,
28 1991, in Armstrong I.

1 34. Attached under separate cover entitled "Declarations of
2 Gerald Armstrong" are copies of the following exhibits:

3 (a) Affidavit of Gerald Armstrong, dated March 19,
4 1986 (Exhibit A);

5 (b) Declaration of Gerald Armstrong, dated November 1,
6 1986 (Exhibit B);

7 (c) Declaration of Gerald Armstrong, dated December
8 18, 1983 (Exhibit C);

9 (d) Declaration of Gerald Armstrong, dated November 7,
10 1986 (Exhibit D);

11 (e) Declaration of Gerald Armstrong, dated November
12 18, 1986 (Exhibit E);

13 (f) Declaration of Gerald Armstrong, dated March 15,
14 1990 (Exhibit F);

15 (g) Declaration of Gerald Armstrong, dated September
16 3, 1991 (Exhibit G);

17 (c) Declaration of Gerald Armstrong, dated May 7, 1985
18 (Exhibit H).

19 35. Attached under separate cover entitled "Declarations of
20 Michael J. Flynn, Esq." are copies of the following exhibits:

21 (a) Affidavit of Michael J. Flynn, dated September 21,
22 1983 (Exhibit A);

23 (b) Declaration of Michael J. Flynn, dated November 7,
24 1984 (Exhibit B);

25 / / /

26 / / /

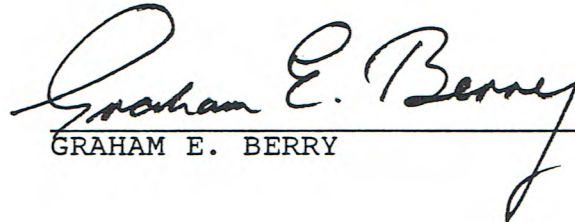
27 / / /

28 / / /

1 (c) Declaration of Michael J. Flynn, dated July 1985
2 (Exhibit C).
3

4 I declare under penalty of perjury under the laws of the State of
5 California that the following is true and correct.

6 Executed this 16th day of March, 1992 at Los Angeles, California.
7

8 
9 GRAHAM E. BERRY
10

11 Armsdecl.acb
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 41

HON. RAYMOND CARDENAS, JUDGE

RELIGIOUS TECHNOLOGY CENTER, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION; CHURCH OF SCIENTOLOGY
INTERNATIONAL, A CALIFORNIA NON-PROFIT
RELIGIOUS CORPORATION; AND CHURCH OF
SCIENTOLOGY OF CALIFORNIA, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION,

PLAINTIFFS,

VS.

JOSEPH A. YANNY, AN INDIVIDUAL;
JOSEPH A. YANNY, A PROFESSIONAL LAW
CORPORATION; AND DOES 1 THROUGH 25,
INCLUSIVE,

DEFENDANTS.

SUPERIOR COURT
CASE NO. BC 033035

REPORTER'S PARTIAL TRANSCRIPT

AUGUST 6, 1991

APPEARANCES:

(AS NOTED ON NEXT PAGE.)

COPY

LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER

APPEARANCES:

FOR PLAINTIFF CHURCH
OF SCIENTOLOGY:

QUINN, KULLY & MORROW
BY: JOHN J. QUINN
520 SOUTH GRAND AVENUE
8TH FLOOR
LOS ANGELES, CALIFORNIA
(213) 622-0300

FOR PLAINTIFF RELIGIOUS
TECHNOLOGY CENTER:

WILLIAM T. DRESCHER
23679 CALABASAS ROAD
SUITE 338
CALABASAS, CALIFORNIA 91302
(818) 591-0039

FOR DEFENDANT JOSEPH
A. YANNY, INDIVIDUALLY:

CUMMINGS & WHITE
BY: BARRY VAN SICKLE
865 SOUTH FIGUEROA STREET
24TH FLOOR
LOS ANGELES, CALIFORNIA 90017
(213) 614-1000

FOR DEFENDANT JOSEPH
A. YANNY, A PROFESSIONAL
CORPORATION:

JOSEPH A. YANNY
1925 CENTURY PARK EAST
SUITE 1260
LOS ANGELES, CALIFORNIA 90067
(213) 551-2966

1 LOS ANGELES, CALIFORNIA

TUESDAY, 8-6-91 # 9:32 A.M.

2 DEPT. 41

HON. RAYMOND CARDENAS, JUDGE

3 APPEARANCES: (AS NOTED ON TITLE PAGE.)

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7 (PREVIOUS PROCEEDINGS WERE REPORTED,
8 BUT NOT TRANSCRIBED HEREIN.)

9
10 THE COURT: THE COURT, AFTER HEARING ARGUMENT AND
11 READING THE DOCUMENTS OF COUNSEL, DOES THE FOLLOWING:

12 INSOFAR AS THE TRO IS CONCERNED, THE COURT
13 FINDS THAT IT IS TOO BROAD IN NATURE, THEREFORE, THE COURT
14 WILL DO THE FOLLOWING:

15 THE COURT FINDS THAT THERE IS A LIKELIHOOD
16 THAT THE PLAINTIFFS WILL PREVAIL IN THIS MATTER AGAINST MR.
17 YANNY AND, THEREFORE, AND ALSO, THAT IN LIGHT OF MR.
18 YANNY'S STATEMENT THAT HE DOES NOT REPRESENT ARMSTRONG,
19 THAT HE SHOULD NOT BE, THEREFORE, CONCERNED WITH A
20 PRELIMINARY INJUNCTION.

21 THE COURT RULES THAT YANNY -- THE COURT NOTES
22 THAT YANNY REPRESENTED THE PLAINTIFFS FOR SEVERAL YEARS AND
23 NOW HAS APPEARED AS COUNSEL FOR THE AZNARANS IN THE FEDERAL
24 COURT AGAINST HIS FORMER CLIENTS, THE PLAINTIFFS, WITHOUT
25 THEIR CONSENT IN VIOLATION -- APPEARS TO BE IN VIOLATION OF
26 BUSINESS AND PROFESSIONS CODE 6068(E) AND RULES OF
27 PROFESSIONAL CONDUCT 3-310(D).

28 THE COURT IN ITS STATEMENT OF DECISION IN

1 CASE NO. 690211, THE YANNY ONE CASE, OBSERVED THAT
2 DEFENDANT YANNY MANIFESTED, QUOTE, "READY WILLINGNESS TO
3 DISREGARD LEGAL ETHICAL RESPONSIBILITIES OWED TO HIS FORMER
4 CLIENT," CLOSED QUOTE.

5 YANNY HAS APPEARED AS COUNSEL OF RECORD FOR
6 THE AZNARANS ON MATTERS SUBSTANTIALLY SIMILAR TO THOSE FOR
7 WHICH YANNY WAS ENGAGED TO SAFEGUARD FOR HIS CLIENTS THE
8 PLAINTIFFS.

9 THERE IS NO WRITTEN CONSENT BY DEFENDANTS TO
10 DO SO, NOR DOES IT APPEAR THAT PLAINTIFFS WILL EVER
11 CONSENT, AND ON THAT SCORE, YOU WILL SEE PAGES 8855 DAR,
12 8849 IN THE COMPLEX ASBESTOS LITIGATION CASE AS PREVIOUSLY
13 CITED AND IS IN THE POINTS AND AUTHORITIES.

14 THE COURT NOTES IN THE COMPLAINT ALLEGES THAT
15 YANNY REPRESENTS GERALD ARMSTRONG AGAINST THE PLAINTIFFS.
16 THIS FACT IS DISPUTED AND WILL BE DETERMINED AT TRIAL.

17 IN THE INTERIM, THE COURT NOTES THAT THE
18 PLAINTIFFS SEEK A PRELIMINARY INJUNCTION TO PREVENT YANNY
19 FROM REPRESENTING ARMSTRONG IN ANY ACTION AGAINST THE
20 PLAINTIFFS.

21 YANNY, AN ATTORNEY FOR PLAINTIFF, BROUGHT
22 LEGAL ACTION AGAINST -- EXCUSE ME -- STRIKE THAT.

23 YANNY DENIES THAT HE REPRESENTS ARMSTRONG, A
24 FACT WHICH WILL BE DETERMINED AT TRIAL. THEREFORE, YANNY
25 SHOULD NOT BE CAUSED TO COMPLAIN FOR A PRELIMINARY
26 INJUNCTION THAT PREVENTS HIM FROM REPRESENTING ARMSTRONG.

27 FINALLY, MR. YANNY'S STATEMENT OF THE DILEMMA
28 THAT HE FOUND HIMSELF IN WHEN HE CHOSE TO BECOME OF RECORD

1 FOR THE AZNARANS IN THE FEDERAL COURT, IT WOULD APPEAR THAT
2 WITHOUT THE CONSENT OF THE FORMER CLIENTS, THAT IT APPEARS
3 TO BE A MATTER SUBSTANTIALLY SIMILAR TO THOSE FOR WHICH HE
4 REPRESENTED THE CHURCH AGAINST OTHERS, AND ALTHOUGH MR.
5 YANNY INSISTS THAT HE SAW IT HIS DUTY TO BECOME OF RECORD
6 FOR THE AZNARANS, IT APPEARS THAT, AT LEAST FOR THE
7 PURPOSES OF THIS HEARING, THAT MR. YANNY DID VIOLATE THE
8 RULES OF PROFESSIONAL CONDUCT BY NOT OBTAINING CONSENT --
9 AND I SAY, IT APPEARS TO -- AND THAT'S THE POSTURE THAT I
10 MAKE AT THIS TIME -- THAT IS THE RULING THAT I MAKE AT THIS
11 TIME.

12 THEREFORE, THE COURT FINDS THAT THERE'S A
13 LIKELIHOOD THAT THE PLAINTIFFS WILL PREVAIL IN THIS MATTER,
14 AND THAT THE MONEY DAMAGES ARE NOT ADEQUATE.

15 A PRELIMINARY INJUNCTION WILL ISSUE, NARROW
16 IN SCOPE. THAT IS TO SAY, THAT MR. YANNY SHALL NOT
17 REPRESENT THE AZNARANS DIRECTLY OR INDIRECTLY IN ANY CASE
18 AGAINST PLAINTIFFS, IN ANY CASE IN THIS COUNTY.

19 NEXT: YANNY MAY NOT INITIATE ANY LEGAL
20 PROCEEDINGS FOR AZNARANS AGAINST THE PLAINTIFFS WITHIN THE
21 STATE OR FEDERAL COURT OF THIS STATE.

22 NEXT: ANY ACTIONS ALREADY FILED BEFORE JULY
23 31ST, '91 IN WHICH YANNY IS OF COUNSEL FOR AZNARANS SHALL
24 BE SUBJECT TO AN INDIVIDUAL MOTION TO DISQUALIFY IN THAT
25 COUNTY, SHOULD THERE BE ONE.

26 THE POINT IS THAT THIS PRELIMINARY INJUNCTION
27 PRECLUDES YANNY FROM INITIATING ANY CASE WHERE HE IS OF
28 COUNSEL OF RECORD FOR THE AZNARANS IN THIS STATE.

1 INSOFAR AS GERALD ARMSTRONG IS CONCERNED, A
2 PRELIMINARY INJUNCTION WILL ISSUE THAT YANNY NOT REPRESENT
3 ARMSTRONG DIRECTLY OR INDIRECTLY IN ANY LEGAL PROCEEDING
4 AGAINST PLAINTIFFS WITHOUT PLAINTIFFS' PRIOR WRITTEN
5 CONSENT OR FURTHER COURT ORDER.

6 THAT YANNY NOT INITIATE ANY LEGAL PROCEEDING
7 IN ANY COURT OF THIS STATE OR IN THE FEDERAL COURT FOR
8 YANNY AGAINST -- FOR ARMSTRONG AGAINST THE PLAINTIFFS.

9 AND NEXT: IN ANY ACTION THAT MAY HAVE BEEN
10 FILED PRIOR TO JULY 31ST, '91 BY YANNY IN FAVOR OF
11 ARMSTRONG AGAINST THE PLAINTIFFS; THAT THAT MATTER SHALL BE
12 A SUBJECT OF AN INDIVIDUAL MOTION TO DISQUALIFY IN SUCH
13 OTHER COUNTY SHOULD THAT CASE HAVE BEEN FILED.

14 THE COURT HAS NARROWED THE INJUNCTION SO THAT
15 IT PRECLUDES MR. YANNY AND YANNY CORPORATION FROM
16 REPRESENTING THE AZNARANS AS COUNSEL, AND THAT MEANS
17 DIRECTLY OR INDIRECTLY.

18 WITHOUT ENUMERATING THE MANY INSTANCES WHERE
19 CONDUCT IS ALLOWED, THE GENERAL IMPORT OF THIS PRELIMINARY
20 INJUNCTION IS NOT TO PRECLUDE ASSOCIATION. IT'S NOT TO
21 PRECLUDE EMPLOYMENT. IT'S NOT TO PRECLUDE MR. YANNY'S
22 RELIGIOUS ACTIVITIES, IF THERE ARE ANY, AND IT IS NOT AN
23 ATTEMPT BY THIS COURT TO RESTRAIN ASSOCIATION, BUT RATHER,
24 IT'S A LIMITED INJUNCTION THAT PRECLUDES REPRESENTATION OF
25 THESE TWO OR THREE ENTITIES, THE TWO AZNARANS AND MR.
26 ARMSTRONG, AS LAWYERS IN A CASE, OR NOT REPRESENTING HIM AS
27 A LAWYER, AND NOT TO DO IT DIRECTLY OR INDIRECTLY, SUCH AS
28 THROUGH ANOTHER LAWYER.

1 HAVING SAID THAT, MR. DRESCHER, A NEW ORDER
2 WILL ISSUE CONSISTENT WITH THE COURT'S COMMENTS, MAKING IT
3 A VERY NARROW, LIMITED ONE, AS I'VE OUTLINED.

4 THE COURT FURTHER ORDERS THAT --

5 BEFORE I MAKE A FURTHER ORDER, I WILL POINT
6 OUT THAT JUDGE TORRES WILL THIS DAY SIGN AN ORDER ASSIGNING
7 THIS CASE TO THIS JUDGE WITHOUT FURTHER MOTION TO BE MADE
8 BY EITHER SIDE, AND THE COURT HEREBY ORDERS THAT DEFENDANTS
9 FILE AN ANSWER WITHIN 20 DAYS AND, FURTHER, THAT AN AT
10 ISSUE MUST BE FILED WITHIN 30 DAYS OF TODAY'S DATE.

11 FURTHER, THAT THE TRIAL OF THIS MATTER IS
12 GOING TO BE SET OCTOBER 21ST, 1991 AT 9:00 A.M. IN THIS
13 DEPARTMENT.

14 MR. YANNY: YOUR HONOR --

15 THE COURT: YES.

16 MR. YANNY: -- IF I MIGHT.

17 I WANT TO MAKE SURE THAT THE ORDER AS THE
18 COURT HAS INDICATED DOES NOT AS WELL PRECLUDE ME FROM
19 DEFENDING MYSELF ANYPLACE, SUCH AS IN THE AZNARANS' CASE,
20 WHERE MY NAME HAS BEEN INTERJECTED --

21 THE COURT: FURTHER COMMENT.

22 MR. YANNY: -- BY THESE PEOPLE.

23 THE COURT: FURTHER COMMENT: CONSISTENT WITH ITS
24 RULING IN YANNY I, THE COURT NOW MAKES NO ORDER PRECLUDING
25 OR PREVENTING MR. YANNY FROM BRINGING ANY LEGAL ACTION
26 AGAINST THE PLAINTIFFS, SHOULD HE DEEM THAT HE HAS BEEN
27 WRONGED.

28 IT IS NOT AN ORDER THAT PRECLUDES HIM FROM

1 GATHERED EVIDENCE IN SUPPORT OF HIS CASE AGAINST THE
2 PLAINTIFFS, NOR DOES IT PRECLUDE HIM FROM TALKING TO
3 POTENTIAL WITNESSES FOR HIS CASE, SHOULD THERE BE ONE.

4 I PURPOSEFULLY HAVE NOT SOUGHT TO ENUMERATE
5 ALL THE INSTANCES THAT ARE NOT COVERED, BUT RATHER TO GIVE
6 YOU SOME GENERAL STATEMENTS TO GIVE YOU SOME GUIDELINE.

7 THE COURT HAS NOW SET A TRIAL DATE, WHICH IS
8 A QUICK ONE, BUT THE ISSUES ARE NARROW, AND IT SEEMS TO ME,
9 AS AN OBSERVATION, RATHER THAN A RULING, THAT THE REAL
10 ISSUE IS WHETHER A PERMANENT INJUNCTION SHOULD BE ISSUED AS
11 AGAINST YANNY REPRESENTING THE AZNARANS, AND THE FACTUAL
12 QUESTION WHETHER OR NOT THERE REALLY IS ANY REPRESENTATION
13 OF ARMSTRONG BY YANNY.

14 THE ORDER IS MADE THIS MORNING ON THE PREMISE
15 THAT MR. YANNY DENIES THAT HE REPRESENTS ARMSTRONG, AND IF
16 THAT'S THE CASE, HE'S NOT HARMED IN THE INTERIM BY IT, BUT
17 THE COMMENTS MADE ARE INTENDED TO GIVE SOME INSIGHT THAT I
18 DON'T ANTICIPATE NOR WILL I LOOK TOO KINDLY ON PLAINTIFFS
19 BRINGING DEFENDANT YANNY IN HERE FOR EVERY, LITTLE CLAIMED
20 WRONG, BECAUSE THAT IS NOT THE INTENT.

21 THE INTENT IS TO QUICKLY RESOLVE THIS MATTER,
22 AND IT IS IN THE LAST WORD I HAVE TO SAY IS, AS FAR AS THIS
23 COURT'S CONCERNED, THIS IS NOT A LAWSUIT TO RIGHT MANY
24 WRONGS THAT ARE CLAIMED OR TO RESOLVE THE OBVIOUS DISPUTE
25 AND TO EQUAL THE ANIMOSITY THAT EXISTS, BUT RATHER TO RULE
26 ON THE NARROW QUESTIONS OF WHETHER OR NOT THERE'S A
27 VIOLATION OF RULES OF PROFESSIONAL CONDUCT, AND WHAT, IF
28 ANY, THE COURT SHOULD GIVE TO IT.

1 MR. YANNY: YOUR HONOR, I WOULD ASK WITH RESPECT TO
2 THE MATTER OF THE BOND, I WOULD ASK THAT THERE BE NO BOND
3 POSTED AND THE PLAINTIFFS WAIVE --

4 THE COURT: TO THE EXTENT THAT THERE IS A BOND,
5 THERE WILL BE NO BOND.

6 MR. YANNY: SO AS NOT TO BE PRECLUDED FROM GOING
7 AFTER THE FULL AMOUNT OF DAMAGE SHOULD THERE HAVE BEEN A
8 WRONGFUL ENJOINMENT AT THE REQUEST OF THE PLAINTIFFS.

9 THE COURT: THE REQUEST OF DAMAGES AND SO FORTH WILL
10 BE ADDRESSED TO OCTOBER 21ST.

11 MR. DRESCHER: THANK YOU, YOUR HONOR.

12 MR. QUINN: YOUR HONOR, MIGHT I POINT OUT JUST ONE
13 MECHANICAL PROBLEM.

14 THE AZNARANS' TRIAL IS SET FOR OCTOBER, WHICH
15 MR. DRESCHER AND I APPEAR, AND IT'S TO BE FOLLOWED BY THE
16 CORYDON CASE, THE ONLY CASE WE'RE INVOLVED WITH MR. VAN
17 SICKLE, WHICH COMES RIGHT BEYOND BEHIND THAT, SO I JUST
18 THOUGHT WE OUGHT TO WARN YOU ABOUT THE PROBLEM ON THE TRIAL
19 DATE.

20 THE COURT: TO BEGIN WITH, I THOUGHT CORYDON HAD
21 SOMEHOW BEEN RESOLVED OR WAS ON THE VERGE OF BEING
22 RESOLVED, WHICH WOULD ELIMINATE ONE OF THE QUESTIONS. THE
23 OTHER CASE, I'M NOT AWARE OF.

24 BUT FOR NOW, I'M GOING TO DO THE FOLLOWING:

25 I'M GOING TO ADD THAT THERE WILL BE A STATUS
26 CONFERENCE IN THIS CASE OCTOBER 11TH, '91, AT 9:00 A.M. IN
27 THIS DEPARTMENT, AND THAT IS SO THAT THE COURT CAN REVIEW
28 THE POSTURE OF THE OTHER PROCEEDINGS AND MAKE SUCH OTHER

1 ORDERS WILL BE REQUIRED.

2 I THINK I'VE SAID ALL THAT I NEED TO SAY,
3 AND, MR. DRESCHER, IF YOU WILL, PREPARE AN ORDER CONSISTENT
4 WITH THE COURT'S COMMENTS.

5 MR. DRESCHER: WE CERTAINLY WILL.

6 THANK YOU.

7 MR. YANNY: THANK YOU, YOUR HONOR.

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9 (PROCEEDINGS CONCLUDED.)
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FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 41

HON. RAYMOND CARDENAS, JUDGE

RELIGIOUS TECHNOLOGY CENTER, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION; CHURCH OF SCIENTOLOGY
INTERNATIONAL, A CALIFORNIA NON-PROFIT
RELIGIOUS CORPORATION; AND CHURCH OF
SCIENTOLOGY OF CALIFORNIA, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION,

PLAINTIFFS,

VS.

JOSEPH A. YANNY, AN INDIVIDUAL;
JOSEPH A. YANNY, A PROFESSIONAL LAW
CORPORATION; AND DOES 1 THROUGH 25,
INCLUSIVE,

DEFENDANTS.

SUPERIOR COURT
CASE NO. BC 033035

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I, LINDA STALEY, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES
1 THROUGH 8, INCLUSIVE, COMPRISE A TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED
MATTER REPORTED BY ME ON AUGUST 6, 1991.

DATED THIS 6TH DAY OF AUGUST 1991.



LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER

1 ORDERS WILL BE REQUIRED.

2 I THINK I'VE SAID ALL THAT I NEED TO SAY,
3 AND, MR. DRESCHER, IF YOU WILL, PREPARE AN ORDER CONSISTENT
4 WITH THE COURT'S COMMENTS.

5 MR. DRESCHER: WE CERTAINLY WILL.

6 THANK YOU.

7 MR. YANNY: THANK YOU, YOUR HONOR.

8
9 (PROCEEDINGS CONCLUDED.)
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FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 41

HON. RAYMOND CARDENAS, JUDGE

RELIGIOUS TECHNOLOGY CENTER, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION; CHURCH OF SCIENTOLOGY
INTERNATIONAL, A CALIFORNIA NON-PROFIT
RELIGIOUS CORPORATION; AND CHURCH OF
SCIENTOLOGY OF CALIFORNIA, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION,

PLAINTIFFS,

VS.

JOSEPH A. YANNY, AN INDIVIDUAL;
JOSEPH A. YANNY, A PROFESSIONAL LAW
CORPORATION; AND DOES 1 THROUGH 25,
INCLUSIVE,

DEFENDANTS.

SUPERIOR COURT
CASE NO. BC 033035

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

I, LINDA STALEY, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES
1 THROUGH 8, INCLUSIVE, COMPRISE A TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED
MATTER REPORTED BY ME ON AUGUST 6, 1991.

DATED THIS 6TH DAY OF AUGUST 1991.



LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER

LEWIS, D'AMATO, BRISBOIS & BISGAARD

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SAN DIEGO OFFICE

SUITE 800
550 WEST "C" STREET
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 233-1006

ORANGE COUNTY OFFICE

SUITE 1400
650 TOWN CENTER DRIVE
CENTER TOWER BUILDING
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 545-9200

GRAHAM E. BERRY

DIRECT DIAL (213) 680-5007

LAWYERS

SUITE 1200

221 NORTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90012
TELEPHONE (213) 250-1800
TELEX: 194508

FACSIMILES:

LOS ANGELES: (213) 250-7900
SAN DIEGO: (619) 233-8627
SAN FRANCISCO: (415) 434-0882
ORANGE COUNTY: (714) 850-1030
SAN BERNARDINO: (714) 387-1138

SAN FRANCISCO OFFICE

SUITE 1900
601 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 362-2580

INLAND EMPIRE OFFICE

TRI-CITY CORPORATE CENTRE
SUITE 650
650 EAST HOSPITALITY LANE
SAN BERNARDINO, CALIFORNIA 92408
TELEPHONE (714) 387-1130

March 13, 1992

BY TELECOPIER AND FIRST CLASS MAIL.

Laurie J. Bartilson, Esq.
Bowles & Moxon
6255 Sunset Blvd., # 2000
Los Angeles, California 90028

Re: Religious Technology Center, et al.
v. Joseph A. Yanny, et al.

Dear Ms. Bartilson:

Reference is made to our February 28, 1992 letter (copy attached) in which we request you release Gerald Armstrong from the restrictive provisions of the Armstrong settlement agreement and permit him to provide advice and assistance to the defendants in Yanny II. We have had no response to your letter and therefore must conclude that you do not intend to permit Mr. Armstrong to assist Mr. Yanny. Our conclusion is strengthened by the preliminary injunction you seek in Marin County in Armstrong II. In addition, by the comments of your co-counsel, Mr. Wilson, on the record on March 3, 1992 that you were seeking to prevent Mr. Armstrong from:

1. Disclosing the contents of the settlement agreement; and
2. Actively aiding persons engaged in litigation adverse to the Church of Scientology; and
3. Disclosing experiences that he had while he was a member of the Church of Scientology; and
4. Disclosing certain knowledge that Mr. Armstrong may have of the life and people related to Mr. L. Ron Hubbard.

It is therefore our understanding that you take the position that you have paid money to Gerald Armstrong for his agreement:

- (a) That he will not voluntarily assist or cooperate with any person or organization adverse to Scientology;
- (b) That he will not testify or otherwise participate in any judicial, administrative or legislative proceeding adverse to Scientology ... unless compelled to do so unless by lawful subpoena . . . and that he shall not make himself amenable to service of any such subpoena;
- (c) That he will not discuss his litigation with Scientology, or his experiences with and knowledge of the church, with anyone other than his immediate family;
- (d) That he will not assist or advise anyone contemplating any claim, or engaged in litigation, or involved in or contemplating any activity adverse to the interest of Scientology.

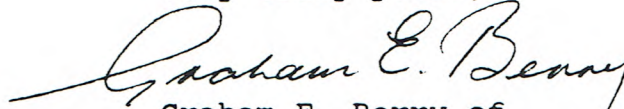
You have sued Mr. Yanny for alleged dealings between him and Mr. Armstrong. On March 3, 1992 you obtained a temporary restraining order preventing Mr. Armstrong from actively aiding Mr. Yanny in the defense of his lawsuit (reporters' transcript 10:27-11:3).

Your aforesaid position, as reflected in the Armstrong II temporary restraining order, severely prejudices and inhibits Mr. Yanny's ability to prepare and present an effective defense to your clients' claims in Yanny II. Indeed, Mr. Yanny's defense is placed in an untenable position when all this is coupled with your letter to Toby Plevin, Esq. stating that "it would be in the best interests of your client [Bent Corydon] for you to avoid ex parte communications in this matter with Mr. Yanny and his attorneys." All of this is nothing less than the obstruction of justice through the silencing of witnesses and suppression of evidence. Indeed, you are prosecuting a complaint against our clients and in any criminal context your conduct would constitute the unlawful withholding and suppression of evidence with all the adverse consequences that would flow from that.

Laurie J. Bartilson. Esq.
March 13, 1992
Page 3

We urge you to reconsider your position and to immediately
fax your response to me.

Very truly yours,

A handwritten signature in cursive script that reads "Graham E. Berry". The signature is written in dark ink and is positioned above the typed name and firm name.

Graham E. Berry of
LEWIS, D'AMATO, BRISBOIS & BISGAARD

GEB/mlb

cc: Hon. Thomas T. Johnson
John J. Quinn, Esq.
William T. Drescher, Esq.
Joseph A. Yanny, Esq.
Patrick K. Smith, Esq.
Ford Greene, Esq.
Toby L. Plevin, Esq.

LEWIS, D'AMATO, BRISBOIS & BISGAARD

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

LAWYERS

SUITE 1200

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LOS ANGELES, CALIFORNIA 90012

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TELEPHONE (714) 387-1130

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COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 545-9200

GRAHAM E. BERRY

DIRECT DIAL (213) 680-5007

February 28, 1992

BY TELECOPIER

Laurie J. Bartilson, Esq.
Bowles & Moxon
6255 Sunset Blvd., # 2000
Los Angeles, California 90028

Re: Religious Technology Center, et al.
v. Joseph A. Yanny, et al.

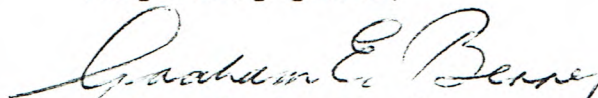
Dear Ms. Bartilson:

When you unilaterally terminated our telephone conversation this afternoon, by hanging up on me, you prevented me from making a request that would avoid our complaint in intervention. Accordingly, I now make that request in writing.

We hereby request that you relieve Gerald Armstrong of the restrictive provisions of the Armstrong settlement agreement and permit him to provide assistance to defendants in Yanny II. Otherwise, we have no alternative but to challenge certain of those restrictive provisions as being void as against public policy.

If you are agreeable to our request, please advise me by 9:00 a.m. Monday morning. Otherwise we shall have no alternative but to proceed with our application to either intervene, or file an amicus curie brief, in the Armstrong case opposing the injunctive relief sought therein to the extent it adversely affects defendants in Yanny II.

Very truly yours,



Graham E. Berry of
LEWIS, D'AMATO, BRISBOIS & BISGAARD

GEB/mlb

FLAG STATS

	Per year	Per Week
Stat		
Well Done Auditing Hours	156,000	3,000
Student Completions	4,160	80
Student Points	1,200,000	23,077
Paid Starts	8,173	157
TOTAL FOR ALL 60 ORGS		
Well Done Auditing Hours	234,000	4,500
FSC Commissions Paid (\$)	1,556	30

It is not terribly difficult to express some of these stats in terms of dollars. Flag's 156,000 hours per year, given a conservative \$250 per hour, comes to \$39 million, or \$750,000 per week. And this does not include accommodations, training, books, meters, etc. It is difficult to understand, in light of this, why there have been weeds of rice and bean, lowered staff pay, etc. Either Flag is booming or it is not.

This entire examination is predicated on RJ38 being true in every respect. If we challenge some of the "given" stats (is. 164 class IV orgs - really?) the logic of the presentation sharply deteriorates.

To be fair, things were better in the church in 1983 than they are at this writing (Aug 84), so it might not be precise to judge the accuracy of RJ38 b; current church stats.

PLTR DEFT Exhibit 10
 Authentication
 Attested L. Ron Hubbard N.P.
 Date 6/15/84
 Witness [Signature]

ON CONTROL AND LYING

THE ONLY WAY YOU CAN CONTROL PEOPLE IS TO LIE TO THEM. You can write that down in your book in great big letters. The only way you can control anybody is to lie to them. When you find an individual is lying to you, you know that the individual is trying to control you. One way or another this individual is trying to control you. That is the mechanism of control. This individual is lying to you because he is trying to control you - because if they give you enough misinformation they will pull you down the tone scale so that they can control you. Conversely, if you see an impulse on the part of a human being to control you, you know very well that that human being is lying to you. Not "is going to", but "is" lying to you.

Check these facts, you will find they are always true. That person who is trying to control you is lying to you. He's got to tell you lies in order to continue control, because the second you start telling anybody close to the truth, you start releasing him and he gets tougher and tougher to control. So, you can't control somebody without telling them a bunch of lies. You will find that very often Command has this as its greatest weakness. It will try to control instead of leading. The next thing you know, it is lying to the c w lie, lie, lie, and it gets worse and worse, and all of a sudden the thing blows up. Well, religion has done this. Organized religion tries to control, so therefore it must be lying. After a while it figures out (even itself) that it is lying, and then it starts down tone scale further and further, and all of a sudden people get down along this spring-like bottom (heresy) and say, "Are we going into apathy and die, or are we going to revolt?" And they revolt, because you can only lie to people so long. Unfortunately there is always a new cycle of lying.

L. Ron Hubbard
 Technique 88

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FILED

JUN 22 1984
John L. Corcoran,

Rosie M. Hart
BY ROSIE M. HART, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA,	)	No. C 420153
	)	
Plaintiff,	)	MEMORANDUM OF
	)	INTENDED DECISION
vs.	)	
	)	
GERALD ARMSTRONG,	)	
	)	
Defendant.	)	
	)	
MARY SUE HUBBARD,	)	
	)	
Intervenor.	)	
	)	

In this matter heretofore taken under submission, the Court announces its intended decision as follows:

As to the tort causes of action, plaintiff, and plaintiff in intervention are to take nothing, and defendant is entitled to Judgment and costs.

As to the equitable actions, the court finds that neither plaintiff has clean hands, and that at least as of this time, are not entitled to the immediate return of any document or objects presently retained by the court clerk. All exhibits

1 received in evidence or marked for identification, unless
2 specifically ordered sealed¹, are matters of public record and
3 shall be available for public inspection or use to the same
4 extent that any such exhibit would be available in any other
5 lawsuit. In other words they are to be treated henceforth no
6 differently than similar exhibits in other cases in Superior
7 Court. Furthermore, the "inventory list and description," of
8 materials turned over by Armstrong's attorneys to the court,
9 shall not be considered or deemed to be confidential, private,
10 or under seal.

11 All other documents or objects presently in the possession
12 of the clerk (not marked herein as court exhibits) shall be
13 retained by the clerk, subject to the same orders as are
14 presently in effect as to sealing and inspection, until such
15 time as trial court proceedings are concluded as to the severed
16 cross complaint. For the purposes of this Judgment, conclusion
17 will occur when any motion for a new trial has been denied, or
18 the time within such a motion must be brought has expired
19 without such a motion being made. At that time, all documents
20 neither received in evidence, nor marked for identification
21 only, shall be released by the clerk to plaintiff's
22 representatives. Notwithstanding this order, the parties may
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24
25 1. Exhibits in evidence No. 500-40; JJJ; KKK; LLL; MMM;
26 NNN; OOO; PPP; QQQ; RRR; and 500-QQQQ.

27 Exhibits for identification only No. JJJJ; Series
28 500-DDDD, EEEE, FFFF, GGGG, HHHH, IIII, NNNN-1, OOOO, ZZZZ,
CCCC, GGGGG, IIIII, KKKKK, LLLLL, OOOOO, PPPPP, QQQQQ, BBBBBB,
OOOOOO, BBBB BBB.

1 at any time by written stipulation filed with the clerk obtain
2 release of any or all such unused materials.

3 Defendant and his counsel are free to speak or communicate
4 upon any of Defendant Armstrong's recollections of his life as
5 a Scientologist or the contents of any exhibit received in
6 evidence or marked for identification and not specifically
7 ordered sealed. As to all documents, and other materials held
8 under seal by the clerk, counsel and the defendant shall remain
9 subject to the same injunctions as presently exist, at least
10 until the conclusion of the proceedings on the cross complaint.
11 However, in any other legal proceedings in which defense
12 counsel, or any of them, is of record, such counsel shall have
13 the right to discuss exhibits under seal, or their contents, if
14 such is reasonably necessary and incidental to the proper
15 representation of his or her client.

16 Further, if any court of competent jurisdiction orders
17 defendant or his attorney to testify concerning the fact of any
18 such exhibit, document, object, or its contents, such testimony
19 shall be given, and no violation of this order will occur.
20 Likewise, defendant and his counsel may discuss the contents of
21 any documents under seal or of any matters as to which this
22 court has found to be privileged as between the parties hereto,
23 with any duly constituted Governmental Law Enforcement Agency
24 or submit any exhibits or declarations thereto concerning such
25 document or materials, without violating any order of this
26 court.

27 ///

28 ///

This court will retain jurisdiction to enforce, modify, alter, or terminate any injunction included within the Judgment.

Counsel for defendant is ordered to prepare, serve, and file a Judgment on the Complaint and Complaint in Intervention, and Statement of Decision if timely and properly requested, consistent with the court's intended decision.

Discussion

The court has found the facts essentially as set forth in defendant's trial brief, which as modified, is attached as an appendix to this memorandum. In addition the court finds that while working for L.R. Hubbard (hereinafter referred to as LRH), the defendant also had an informal employer-employee relationship with plaintiff Church, but had permission and authority from plaintiffs and LRH to provide Omar Garrison with every document or object that was made available to Mr. Garrison, and further, had permission from Omar Garrison to take and deliver to his attorneys the documents and materials which were subsequently delivered to them and thenceforth into the custody of the County Clerk.

Plaintiff Church has made out a prima facie case of conversion (as bailee of the materials), breach of fiduciary duty, and breach of confidence (as the former employer who provided confidential materials to its then employee for certain specific purposes, which the employee later used for other purposes to plaintiff's detriment). Plaintiff Mary Jane Hubbard has likewise made out a prima facie case of conversion

1 and invasion of privacy (misuse by a person of private matters
2 entrusted to him for certain specific purposes only).

3 While defendant has asserted various theories of defense,
4 the basic thrust of his testimony is that he did what he did,
5 because he believed that his life, physical and mental well
6 being, as well as that of his wife were threatened because the
7 organization was aware of what he knew about the life of LRH,
8 the secret machinations and financial activities of the Church,
9 and his dedication to the truth. He believed that the only way
10 he could defend himself, physically as well as from harassing
11 lawsuits, was to take from Omar Garrison those materials which
12 would support and corroborate everything that he had been
13 saying within the Church about LRH and the Church, or refute
14 the allegations made against him in the April 22 Suppressive
15 Person Declare. He believed that the only way he could be sure
16 that the documents would remain secure for his future use was
17 to send them to his attorneys, and that to protect himself, he
18 had to go public so as to minimize the risk that LRH, the
19 Church, or any of their agents would do him physical harm.

20 This conduct if reasonably believed in by defendant and
21 engaged in by him in good faith, finds support as a defense to
22 the plaintiff's charges in the Restatements of Agency, Torts,
23 and case law.

24 Restatement of Agency, Second, provides:

25 "Section 395f: An agent is privileged to reveal
26 information confidentially acquired by him in the course
27 of his agency in the protection of a superior interest of
28 himself or a third person.

1 "Section 418: An agent is privileged to protect
2 interests of his own which are superior to those of the
3 principal, even though he does so at the expense of the
4 principal's interest or in disobedience to his orders."

5 Restatement of torts, Second, section 271:

6 "One is privileged to commit an act which would
7 otherwise be a trespass to or a conversion of a chattel in
8 the possession of another, for the purpose of defending
9 himself or a third person against the other, under the
10 same conditions which would afford a privilege to inflict
11 harmful or offensive contact upon the other for the same
12 purpose."

13 The Restatement of Torts, Second, section 652a, as well as
14 case law, make it clear that not all invasions of privacy are
15 unlawful or tortious. It is only when the invasion is
16 unreasonable that it becomes actionable. Hence, the trier of
17 fact must engage in a balancing test, weighing the nature and
18 extent of the invasion, as against the purported justification
19 therefore to determine whether in a given case, the particular
20 invasion or intrusion was unreasonable.

21 In addition the defendant has asserted as a defense the
22 principal involved in the case of Willig v. Gold, 75
23 Cal.App.2d, 809, 814, which holds that an agent has a right or
24 privilege to disclose his principal's dishonest acts to the
25 party prejudicially affected by them.

26 Plaintiff Church has asserted and obviously has certain
27 rights arising out of the First Amendment. Thus, the court
28 cannot, and has not, inquired into or attempted to evaluate the

1 merits, accuracy, or truthfulness of Scientology or any of its
2 precepts as a religion. First Amendment rights, however,
3 cannot be utilized by the Church or its members, as a sword to
4 preclude the defendant, whom the Church is suing, from
5 defending himself. Therefore, the actual practices of the
6 Church or its members, as it relates to the reasonableness of
7 the defendant's conduct and his state of mind are relevant,
8 admissible, and have been considered by the court.

9 As indicated by its factual findings, the court finds the
10 testimony of Gerald and Jocelyn Armstrong, Laurel Sullivan,
11 Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas,
12 and Howard Schomer to be credible, extremely persuasive, and
13 the defense of privilege or justification established and
14 corroborated by this evidence. Obviously, there are some
15 discrepancies or variations in recollections, but these are the
16 normal problems which arise from lapse of time, or from
17 different people viewing matters or events from different
18 perspectives. In all critical and important matters, their
19 testimony was precise, accurate, and rang true. The picture
20 painted by these former dedicated Scientologists, all of whom
21 were intimately involved with LRH, or Mary Jane Hubbard, or of
22 the Scientology Organization, is on the one hand pathetic, and
23 on the other, outrageous. Each of these persons literally gave
24 years of his or her respective life in support of a man, LRH,
25 and his ideas. Each has manifested a waste and loss or
26 frustration which is incapable of description. Each has broken
27 with the movement for a variety of reasons, but at the same
28 time, each is, still bound by the knowledge that the Church has

1 in its possession his or her most inner thoughts and
2 confessions, all recorded in "pre-clear (P.C.) folders" or
3 other security files of the organization, and that the Church
4 or its minions is fully capable of intimidation or other
5 physical or psychological abuse if it suits their ends. The
6 record is replete with evidence of such abuse.

7 In 1970 a police agency of the French Government conducted
8 an investigation into Scientology and concluded, "this sect,
9 under the pretext of 'freeing humans' is nothing in reality but
10 a vast enterprise to extract the maximum amount of money from
11 its adepts by (use of) pseudo-scientific theories, by (use of)
12 'auditions' and 'stage settings' (lit. to create a theatrical
13 scene') pushed to extremes (a machine to detect lies, its own
14 particular phraseology . . .), to estrange adepts from their
15 families and to exercise a kind of blackmail against persons
16 who do not wish to continue with this sect."² From the
17 evidence presented to this court in 1984, at the very least,
18 similar conclusions can be drawn. In addition to violating and
19 abusing its own members civil rights, the organization over the
20 years with its "Fair Game" doctrine has harassed and abused
21 those persons not in the Church whom it perceives as enemies.
22 The organization clearly is schizophrenic and paranoid, and
23 this bizarre combination seems to be a reflection of its
24 founder LRH. The evidence portrays a man who has been
25 virtually a pathological liar when it comes to his history,
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28 2. Exhibit 500-HHHHH.

1 background, and achievements. The writings and documents in
2 evidence additionally reflect his egoism, greed, avarice, lust
3 for power, and vindictiveness and aggressiveness against
4 persons perceived by him to be disloyal or hostile. At the
5 same time it appears that he is charismatic and highly capable
6 of motivating, organizing, controlling, manipulating, and
7 inspiring his adherents. He has been referred to during the
8 trial as a "genius," a "revered person," a man who was "viewed
9 by his followers in awe." Obviously, he is and has been a very
10 complex person, and that complexity is further reflected in his
11 alter ego, the Church of Scientology. Notwithstanding
12 protestations to the contrary, this court is satisfied that LRH
13 runs the Church in all ways through the Sea Organization, his
14 role of Commodore, and the Commodore's Messengers.³ He has, of
15 course, chosen to go into "seclusion," but he maintains contact
16 and control through the top messengers. Seclusion has its
17 light and dark side too. It adds to his mystique, and yet
18 shields him from accountability and subpoena or service of
19 summons.

20 LRH's wife, Mary Sue Hubbard is also a plaintiff herein.
21 On the one hand she certainly appeared to be a pathetic
22 individual. She was forced from her post as Controller,
23 convicted and imprisoned as a felon, and deserted by her
24 husband. On the other hand her credibility leaves much to be
25 desired. She struck the familiar pose of not seeing, hearing,

26
27 3. See Exhibit K: Flag Order 3729 - 15 September 1978
28 "Commodore's Messengers."

1 or knowing any evil. Yet she was the head of the Guardian
2 Office for years and among other things, authored the infamous
3 order "GO 121669"⁴ which directed culling of supposedly
4 confidential P.C. files/folders for purposes of internal
5 security. In her testimony she expressed the feeling that
6 defendant by delivering the documents, writings, letters to his
7 attorneys, subjected her to mental rape. The evidence is clear
8 and the court finds that defendant and Omar Garrison had
9 permission to utilize these documents for the purpose of
10 Garrison's proposed biography. The only other persons who were
11 shown any of the documents were defendant's attorneys, the
12 Douglasses, the Dincalcis, and apparently some documents
13 specifically affecting LRH's son "Nibs," were shown to "Nibs."
14 The Douglasses and Dincalcises were disaffected Scientologists
15 who had a concern for their own safety and mental security, and
16 were much in the same situation as defendant. They had not
17 been declared as suppressive, but Scientology had their P.C.
18 folders, as well as other confessions, and they were extremely
19 apprehensive. They did not see very many of the documents, and
20 it is not entirely clear which they saw. At any rate Mary Sue
21 Hubbard did not appear to be so much distressed by this fact,
22 as by the fact that Armstrong had given the documents to
23 Michael Flynn, whom the Church considered its foremost

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28 4. Exhibit AAA.

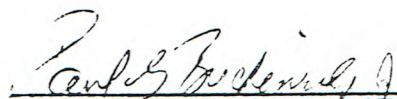
1 lawyer-enemy.⁵ However, just as the plaintiffs have First
2 Amendment rights, the defendant has a Constitutional right to
3 an attorney of his own choosing. In legal contemplation the
4 fact that defendant selected Mr. Flynn rather than some other
5 lawyer cannot by itself be tortious. In determining whether
6 the defendant unreasonably invaded Mrs. Hubbard's privacy, the
7 court is satisfied the invasion was slight, and the reasons and
8 justification for defendant's conduct manifest. Defendant was
9 told by Scientology to get an attorney. He was declared an
10 enemy by the Church. He believed, reasonably, that he was
11 subject to "fair game." The only way he could defend himself,
12 his integrity, and his wife was to take that which was
13 available to him and place it in a safe harbor, to wit, his
14 lawyer's custody. He may have engaged in overkill, in the
15 sense that he took voluminous materials, some of which appear
16 only marginally relevant to his defense. But he was not a
17 lawyer and cannot be held to that precise standard of judgment.
18 Further, at the time that he was accumulating the material, he
19 was terrified and undergoing severe emotional turmoil. The
20 court is satisfied that he did not unreasonably intrude upon
21 Mrs. Hubbard's privacy under the circumstances by in effect
22 simply making his knowledge that of his attorneys. It is, of
23 course, rather ironic that the person who authorized G.O. order
24 121669 should complain about an invasion of privacy. The

25
26 5. "No, I think my emotional distress and upset is the
27 fact that someone took papers and materials without my
28 authorization and then gave them to your Mr. Flynn."
Reporter's Transcript, p. 1006.

1 practice of culling supposedly confidential "P.C. folders or
2 files" to obtain information for purposes of intimidation
3 and/or harassment is repugnant and outrageous. The Guardian's
4 Office, which plaintiff headed, was no respecter of anyone's
5 civil rights, particularly that of privacy. Plaintiff Mary Sue
6 Hubbard's cause of action for conversion must fail for the same
7 reason as plaintiff Church. The documents were all together in
8 Omar Garrison's possession. There was no rational way the
9 defendant could make any distinction.

10 Insofar as the return of documents is concerned, matters
11 which are still under seal may have evidentiary value in the
12 trial of the cross complaint or in other third party
13 litigation. By the time that proceedings on the cross
14 complaint are concluded, the court's present feeling is that
15 those documents or objects not used by that time should be
16 returned to plaintiff. However, the court will reserve
17 jurisdiction to reconsider that should circumstances warrant.

18 Dated: June 20, 1984

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21 PAUL G. BRECKENRIDGE, JR.
22 Judge of the Superior Court
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1 In January of 1980 there was an announcement of a possible
2 raid to be made by the FBI or other law enforcement agencies of
3 the property. Everyone on the property was required by
4 Hubbard's representatives, the Commodore's Messengers, to go
5 through all documents located on the property and "vet" or
6 destroy anything which showed that Hubbard controlled
7 Scientology organizations, retained financial control, or was
8 issuing orders to people at Gilman Hot Springs.

9 A commercial paper shredder was rented and operated day
10 and night for two weeks to destroy hundreds of thousands of
11 pages of documents.

12 During the period of shredding, Brenda Black, the
13 individual responsible for storage of Hubbard's personal
14 belongings at Gilman Hot Springs, came to Defendant Armstrong
15 with a box of documents and asked whether they were to be
16 shredded. Defendant Armstrong reviewed the documents and found
17 that they consisted of a wide variety of documents including
18 Hubbard's personal papers, diaries, and other writings from a
19 time before he started Dianetics in 1950, together with
20 documents belonging to third persons which had apparently been
21 stolen by Hubbard or his agents. Defendant Armstrong took the
22 documents from Ms. Black and placed them in a safe location on
23 the property. He then searched for and located another twenty
24 or more boxes containing similar materials, which were poorly
25 maintained.

26 On January 8, 1980, Defendant Armstrong wrote a petition
27 to Hubbard requesting his permission to perform the research
28 for a biography to be done about his life. The petition states

1 that Defendant Armstrong had located the subject materials and
2 lists of a number of activities he wished to perform in
3 connection with the biography research.

4 Hubbard approved the petition, and Defendant Armstrong
5 became the L. Ron Hubbard Personal Relations Officer Researcher
6 (PPRO Res). Defendant claims that this petition and its
7 approval forms the basis for a contract between Defendant and
8 Hubbard. Defendant Armstrong's supervisor was then Laurel
9 Sullivan, L. Ron Hubbard's Personal Public Relations Officer.

10 During the first part of 1980, Defendant Armstrong moved
11 all of the L. Ron Hubbard Archives materials he had located at
12 Gilman Hot Springs to an office in the Church of Scientology
13 Cedars Complex in Los Angeles. These materials comprised
14 approximately six file cabinets. Defendant Armstrong had
15 located himself in the Cedars Complex, because he was also
16 involved in "Mission Corporate Category Sort-Out," a mission to
17 work out legal strategy. Defendant Armstrong was involved with
18 this mission until June of 1980.

19 It was also during this early part of 1980 that Hubbard
20 left the location in Gilman Hot Springs, California, and went
21 into hiding. Although Defendant Armstrong was advised by
22 Laurel Sullivan that no one could communicate with Hubbard,
23 Defendant Armstrong knew that the ability for communication
24 existed, because he had forwarded materials to Hubbard at his
25 request in mid-1980.

26 Because of this purported inability to communicate with
27 Hubbard, Defendant Armstrong's request to purchase biographical
28 materials of Hubbard from people who offered them for sale went

1 to the Commodore's Messenger Organization, the personal
2 representatives of Hubbard.

3 In June of 1980 Defendant Armstrong became involved in the
4 selection of a writer for the Hubbard biography. Defendant
5 Armstrong learned that Hubbard had approved of a biography
6 proposal prepared by Omar Garrison, a writer who was not a
7 member of Scientology. Defendant Armstrong had meetings with
8 Mr. Garrison regarding the writing of the biography and what
9 documentation and assistance would be made available to him.
10 As understood by Mr. Garrison, Defendant Armstrong represented
11 Hubbard in these discussions.

12 Mr. Garrison was advised that the research material he
13 would have at his disposal were Hubbard's personal archives.
14 Mr. Garrison would only undertake a writing of the biography if
15 the materials provided to him were from Hubbard's personal
16 archives, and only if his manuscript was subject to the
17 approval of Hubbard himself.

18 In October of 1980 Mr. Garrison came to Los Angeles and
19 was toured through the Hubbard archives materials that
20 Defendant Armstrong had assembled up to that time. This was an
21 important "selling point" in obtaining Mr. Garrison's agreement
22 to write the biography. On October 30, 1980, an agreement was
23 entered into between Ralston-Pilot, ncv. F/S/O Omar V.
24 Garrison, and AOSH DK Publications of Copenhagen, Denmark, for
25 the writing of a biography of Hubbard.

26 Paragraph 10B of the agreement states that:

27 "Publisher shall use its best efforts to provide
28 Author with an office, an officer assistant and/or

1 research assistant, office supplies and any needed
2 archival and interview materials in connection with
3 the writing of the Work."

4 The "research assistant" provided to Mr. Garrison was
5 Defendant Armstrong.

6 During 1980 Defendant Armstrong exchanged correspondence
7 with Intervenor regarding the biography project. Following his
8 approval by Hubbard as biography researcher, Defendant
9 Armstrong wrote to Intervenor on February 5, 1980, advising her
10 of the scope of the project. In the letter Defendant stated
11 that he had found documents which included Hubbard's diary from
12 his Orient trip, poems, essays from his youth, and several
13 personal letters, as well as other things.

14 By letter of February 11, 1980, Intervenor responded to
15 Defendant, acknowledging that he would be carrying out the
16 duties of Biography Researcher.

17 On October 14, 1980, Defendant Armstrong again wrote to
18 Intervenor, updating her on "Archives materials" and proposing
19 certain guidelines for the handling of those materials.

20 It was Intervenor who, in early 1981, ordered certain
21 biographical materials from "Controller Archives" to be
22 delivered to Defendant Armstrong. These materials consisted of
23 several letters written by Hubbard in the 1920's and 1930's,
24 Hubbard's Boy Scout books and materials, several old Hubbard
25 family photographs, a diary kept by Hubbard in his youth, and
26 several other items.

27 Defendant Armstrong received these materials upon the
28 order of Intervenor, following his letter of October 15, 1980,

1 to her in which Defendant stated, at page 7, that there were
2 materials in the "Controller Archives" that would be helpful to
3 him in the biography research.

4 After these materials were delivered to Defendant
5 Armstrong, Intervenor was removed from her Scientology position
6 of Controller in 1981, presumably because of her conviction for
7 the felony of obstruction of justice in connection with the
8 theft of Scientology documents from various government offices
9 and agencies in Washington, D.C.

10 During the time Defendant Armstrong worked on the
11 biography project and acted as Hubbard Archivist, there was
12 never any mention that he was not to be dealing with Hubbard's
13 personal documents or that the delivery of those documents to
14 Mr. Garrison was not authorized.

15 For the first year or more of the Hubbard biography and
16 archive project, funding came from Hubbard's personal staff
17 unit at Gilman Hot Springs, California. In early 1981,
18 however, Defendant Armstrong's supervisor, Laurel Sullivan,
19 ordered him to request that funding come from what was known as
20 SEA Org Reserves. Approval for this change in funding came
21 from the SEA Org Reserves Chief and Watch Dog Committee, the
22 top Commodores Messenger Organization unit, who were Hubbard's
23 personal representatives.

24 From November of 1980 through 1981, Defendant Armstrong
25 worked closely with Mr. Garrison, assembling Hubbard's archives
26 into logical categories, copying them and arranging the copies
27 of the Archives materials into bound volumes. Defendant
28 Armstrong made two copies of almost all documents copied for

1 Mr. Garrison - one for Mr. Garrison and the other to remain in
2 Hubbard Archives for reference or recopying. Defendant
3 Armstrong created approximately 400 binders of documents. The
4 vast majority of the documents for Mr. Garrison came from
5 Hubbard's personal Archives, of which Defendant Armstrong was
6 in charge. Materials which came from other Archives, such as
7 the Controller Archives, were provided to Defendant Armstrong
8 by Scientology staff members who had these documents in their
9 care.

10 It was not until late 1981 that Plaintiff was to provide a
11 person to assist on the biography project by providing Mr.
12 Garrison with "Guardian Office" materials, otherwise described
13 as technical materials relating to the operation of
14 Scientology. The individual appointed for this task was Vaughn
15 Young. Controller Archives and Guardian Office Archives had no
16 connection to the Hubbard Archives, which Defendant Armstrong
17 created and maintained as Hubbard's personal materials.

18 In addition to the assemblage of Hubbard's Archives,
19 Defendant Armstrong worked continually on researching and
20 assembling materials concerning Hubbard by interviewing dozens
21 of individuals, including Hubbard's living aunt, uncle, and
22 four cousins. Defendant Armstrong did a geneology study of
23 Hubbard's family and collected, assembled, and read hundreds of
24 thousands of pages of documentation in Hubbard's Archives.

25 During 1980 Defendant Armstrong remained convinced of
26 Hubbard's honesty and integrity and believed that the
27 representations he had made about himself in various
28 publications were truthful. Defendant Armstrong was devoted to

1 Hubbard and was convinced that any information which he
2 discovered to be unflattering of Hubbard or contradictory to
3 what Hubbard has said about himself, was a lie being spread by
4 Hubbard's enemies. Even when Defendant Armstrong located
5 documents in Hubbard's Archives which indicated that
6 representations made by Hubbard and the Organization were
7 untrue, Defendant Armstrong would find some means to "explain
8 away" the contradictory information.

9 Slowly, however, throughout 1981, Defendant Armstrong
10 began to see that Hubbard and the Organization had continuously
11 lied about Hubbard's past, his credentials, and his
12 accomplishments. Defendant Armstrong believed, in good faith,
13 that the only means by which Scientology could succeed in what
14 Defendant Armstrong believed was its goal of creating an
15 ethical environment on earth, and the only way Hubbard could be
16 free of his critics, would be for Hubbard and the Organization
17 to discontinue the lies about Hubbard's past, his credentials,
18 and accomplishments. Defendant Armstrong resisted any public
19 relations piece or announcement about Hubbard which the L. Ron
20 Hubbard Public Relations Bureau proposed for publication which
21 was not factual. Defendant Armstrong attempted to change and
22 make accurate the various "about the author" sections in
23 Scientology books, and further, Defendant rewrote or critiqued
24 several of these and other publications for the L. Ron Hubbard
25 Public Relations Bureau and various Scientology Organizations.
26 Defendant Armstrong believed and desired that the Scientology
27 Organization and its leader discontinue the perpetration of the
28 ///

1 massive fraud upon the innocent followers of Scientology, and
2 the public at large.

3 Because of Defendant Armstrong's actions, in late November
4 of 1981, Defendant was requested to come to Gilman Hot Springs
5 by Commodore Messenger Organization Executive, Cirrus Slevin.
6 Defendant Armstrong was ordered to undergo a "security check,"
7 which involved Defendant Armstrong's interrogation while
8 connected to a crude Scientology lie detector machine called an
9 E-meter.

10 The Organization wished to determine what materials
11 Defendant Armstrong had provided to Omar Garrison. Defendant
12 Armstrong was struck by the realization that the Organization
13 would not work with him to correct the numerous fraudulent
14 representations made to followers of Scientology and the public
15 about L. Ron Hubbard and the Organization itself. Defendant
16 Armstrong, who, for twelve years of his life, had placed his
17 complete and full trust in Mr. and Mrs. Hubbard and the
18 Scientology Organization, saw that his trust had no meaning and
19 that the massive frauds perpetrated about Hubbard's past,
20 credentials, and accomplishments would continue to be spread.

21 Less than three weeks before Defendant Armstrong left
22 Scientology, he wrote a letter to Cirrus Slevin on November 25,
23 1981, in which it is clear that his intentions in airing the
24 inaccuracies, falsehoods, and frauds regarding Hubbard were
25 done in good faith. In his letter he stated as follows:

26 "If we present inaccuracies, hyperbole
27 or downright lies as fact or truth, it
28 doesn't matter what slant we give them, if

1 disproved the man will look, to outsiders
2 at least, like a charlatan. This is what
3 I'm trying to prevent and what I've been
4 working on the past year and a half.

5 . . .

6 "and that is why I said to Norman that
7 it is up to us to insure that everything
8 which goes out about LRH is one hundred
9 percent accurate. That is not to say that
10 opinions can't be voiced, they can. And
11 they can contain all the hype you want.
12 But they should not be construed as facts.
13 And anything stated as a fact should be
14 documentable.

15 "we are in a period when
16 'investigative reporting' is popular, and
17 when there is relatively easy access to
18 documentation on a person. We can't delude
19 ourselves I believe, if we want to gain
20 public acceptance and cause some betterment
21 in society, that we can get away with
22 statements, the validity of which we don't
23 know.

24 "The real disservice to LRH, and the
25 ultimate make-wrong is to go on assuming
26 that everything he's ever written or said
27 is one hundred percent accurate and publish
28 it as such without verifying it. I'm

1 talking here about biographical or
2 non-technical writings. This only leads,
3 should any of his statements turn out to be
4 inaccurate, to a make-wrong of him, and
5 consequently his technology.

6 "That's what I'm trying to remedy and
7 prevent.

8 . . .

9 "To say that LRH is not capable of
10 hype, errors or lies is certainly ^sic; not
11 granting him much of a beingness. To
12 continue on with the line that he has never
13 erred nor lied is counterproductive. It is
14 an unreal attitude and too far removed from
15 both the reality and people in general that
16 it would widen public unacceptance.

17 . . .

18 ". . . That is why I feel the
19 falsities must be corrected, and why we
20 must verify our facts and present them in a
21 favorable light."

22
23 The remainder of the letter contains examples of facts
24 about Hubbard which Defendant Armstrong found to be wholly
25 untrue or inaccurate and which were represented as true by the
26 Hubbards and the Scientology Organization.

27 In December of 1981 Defendant Armstrong made the decision
28 to leave the Church of Scientology. In order to continue in

1 his commitment to Hubbard and Mr. Garrison in the biography
2 project, he copied a large quantity of documents, which Mr.
3 Garrison had requested or which would be useful to him for the
4 biography. Defendant Armstrong delivered all of this material
5 to Mr. Garrison the date he left the SEA Organization and kept
6 nothing in his possession.

7 Thereafter, Defendant Armstrong maintained friendly
8 relations with Hubbard's representatives by returning to the
9 Archives office and discussing the various categories of
10 materials. In fact on February 24, 1982, Defendant Armstrong
11 wrote to Vaughn Young, regarding certain materials Mr. Young
12 was unable to locate for Omar Garrison.

13 After this letter was written, Defendant Armstrong went to
14 the Archives office and located certain materials Mr. Garrison
15 had wanted which Hubbard representatives claimed they could not
16 locate.

17 At the time Defendant Armstrong left the SEA Organization,
18 he was disappointed with Scientology and Hubbard, and also felt
19 deceived by them. However, Defendant Armstrong felt he had no
20 enemies and felt no ill will toward anyone in the Organization
21 or Hubbard, but still believed that a truthful biography should
22 be written.

23 After leaving the SEA Organization, Defendant ARMstrong
24 continued to assist Mr. Garrison with the Hubbard biography
25 project. In the spring of 1982, Defendant Armstrong at Mr.
26 Garrison's request, transcribed some of his interview tapes,
27 copied some of the documentation he had, and assembled several
28 more binders of copied materials. Defendant Armstrong also set

1 up shelves for Mr. Garrison for all the biography research
2 materials, worked on a cross-reference systems, and continued
3 to do library research for the biography.

4 On February 18, 1982, the Church of Scientology
5 International issued a "Suppressive Person Declare Gerry
6 Armstrong," which is an official Scientology document issued
7 against individuals who are considered as enemies of the
8 Organization. Said Suppressive Person Declare charged that
9 Defendant Armstrong had taken an unauthorized leave and that he
10 was spreading destructive rumors about Senior Scientologists.

11 Defendant Armstrong was unaware of said Suppressive Person
12 Declare until April of 1982. At that time a revised Declare
13 was issued on April 22, 1982. Said Declare charged Defendant
14 Armstrong with 18 different "Crimes and High Crimes and
15 Suppressive Acts Against the Church." The charges included
16 theft, juggling accounts, obtaining loans on money under false
17 pretenses, promulgating false information about the Church ,
18 its founder, and members, and other untruthful allegations
19 designed to make Defendant Armstrong an appropriate subject of
20 the Scientology "Fair Game Doctrine." Said Doctrine allows any
21 suppressive person to be "tricked, cheated, lied to, sued, or
22 destroyed."

23 The second declare was issued shortly after Defendant
24 Armstrong attempted to sell photographs of his wedding on board
25 Hubbard's ship (in which Hubbard appears), and photographs
26 belonging to some of his friends, which also included photos of
27 L.R. Hubbard while in seclusion. Although Defendant Armstrong
28 delivered the photographs to a Virgil Wilhite for sale, he

1 never received payment or return of his friend's photographs.
2 When he became aware that the Church had these photographs, he
3 went to the Organization to request their return. A loud and
4 boisterous argument ensued, and he eventually was told to leave
5 the premises and get an attorney.

6 From his extensive knowledge of the covert and
7 intelligence operations carried out by the Church of
8 Scientology of California against its enemies (suppressive
9 persons), Defendant Armstrong became terrified and feared that
10 his life and the life of his wife were in danger, and he also
11 feared he would be the target of costly and harassing lawsuits.
12 In addition, Mr. Garrison became afraid for the security of the
13 documents and believed that the intelligence network of the
14 Church of Scientology would break and enter his home to
15 retrieve them. Thus, Defendant Armstrong made copies of
16 certain documents for Mr. Garrison and maintained them in a
17 separate location.

18 It was thereafter, in the summer of 1982, that Defendant
19 Armstrong asked Mr. Garrison for copies of documents to use in
20 his defense and sent the documents to his attorneys, Michael
21 Flynn and Contos & Bunch.

22 After the within suit was filed on August 2, 1982,
23 Defendant Armstrong was the subject of harassment, including
24 being followed and surveilled by individuals who admitted
25 employment by Plaintiff; being assaulted by one of these
26 individuals; being struck bodily by a car driven by one of
27 these individuals; having two attempts made by said individuals
28 apparently to involve Defendant Armstrong in a freeway

1 automobile accident; having said individuals come onto
2 Defendant Armstrong's property, spy in his windows, create
3 disturbances, and upset his neighbors. During trial when it
4 appeared that Howard Schomer (a former Scientologist) might be
5 called as a defense witness, the Church engaged in a somewhat
6 sophisticated effort to suppress his testimony. It is not
7 clear how the Church became aware of defense intentions to call
8 Mr. Schomer as a witness, but it is abundantly clear they
9 sought to entice him back into the fold and prevent his
10 testimony.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 41

HON. RAYMOND CARDENAS, JUDGE

RELIGIOUS TECHNOLOGY CENTER, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION; CHURCH OF SCIENTOLOGY
INTERNATIONAL, A CALIFORNIA NON-PROFIT
RELIGIOUS CORPORATION; AND CHURCH OF
SCIENTOLOGY OF CALIFORNIA, A
CALIFORNIA NON-PROFIT RELIGIOUS
CORPORATION,

PLAINTIFFS,

VS.

JOSEPH A. YANNY, AN INDIVIDUAL;
JOSEPH A. YANNY, A PROFESSIONAL LAW
CORPORATION; AND DOES 1 THROUGH 25,
INCLUSIVE,

DEFENDANTS.

SUPERIOR COURT
CASE NO. BC 033035

REPORTER'S PARTIAL TRANSCRIPT

AUGUST 6, 1991

APPEARANCES:

(AS NOTED ON NEXT PAGE.)

COPY

LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER

APPEARANCES:

FOR PLAINTIFF CHURCH
OF SCIENTOLOGY:

QUINN, KULLY & MORROW
BY: JOHN J. QUINN
520 SOUTH GRAND AVENUE
8TH FLOOR
LOS ANGELES, CALIFORNIA
(213) 622-0300

FOR PLAINTIFF RELIGIOUS
TECHNOLOGY CENTER:

WILLIAM T. DRESCHER
23679 CALABASAS ROAD
SUITE 338
CALABASAS, CALIFORNIA 91302
(818) 591-0039

FOR DEFENDANT JOSEPH
A. YANNY, INDIVIDUALLY:

CUMMINGS & WHITE
BY: BARRY VAN SICKLE
865 SOUTH FIGUEROA STREET
24TH FLOOR
LOS ANGELES, CALIFORNIA 90017
(213) 614-1000

FOR DEFENDANT JOSEPH
A. YANNY, A PROFESSIONAL
CORPORATION:

JOSEPH A. YANNY
1925 CENTURY PARK EAST
SUITE 1260
LOS ANGELES, CALIFORNIA 90067
(213) 551-2966

1 LOS ANGELES, CALIFORNIA

TUESDAY, 8-6-91 # 9:32 A.M.

2 DEPT. 41

HON. RAYMOND CARDENAS, JUDGE

3 APPEARANCES: (AS NOTED ON TITLE PAGE.)

4
5 - - e - -
6

7 (PREVIOUS PROCEEDINGS WERE REPORTED,
8 BUT NOT TRANSCRIBED HEREIN.)
9

10 THE COURT: THE COURT, AFTER HEARING ARGUMENT AND
11 READING THE DOCUMENTS OF COUNSEL, DOES THE FOLLOWING:

12 INsofar AS THE TRO IS CONCERNED, THE COURT
13 FINDS THAT IT IS TOO BROAD IN NATURE, THEREFORE, THE COURT
14 WILL DO THE FOLLOWING:

15 THE COURT FINDS THAT THERE IS A LIKELIHOOD
16 THAT THE PLAINTIFFS WILL PREVAIL IN THIS MATTER AGAINST MR.
17 YANNY AND, THEREFORE, AND ALSO, THAT IN LIGHT OF MR.
18 YANNY'S STATEMENT THAT HE DOES NOT REPRESENT ARMSTRONG,
19 THAT HE SHOULD NOT BE, THEREFORE, CONCERNED WITH A
20 PRELIMINARY INJUNCTION.

21 THE COURT RULES THAT YANNY -- THE COURT NOTES
22 THAT YANNY REPRESENTED THE PLAINTIFFS FOR SEVERAL YEARS AND
23 NOW HAS APPEARED AS COUNSEL FOR THE AZNARANS IN THE FEDERAL
24 COURT AGAINST HIS FORMER CLIENTS, THE PLAINTIFFS, WITHOUT
25 THEIR CONSENT IN VIOLATION -- APPEARS TO BE IN VIOLATION OF
26 BUSINESS AND PROFESSIONS CODE 6068(E) AND RULES OF
27 PROFESSIONAL CONDUCT 3-310(D).

28 THE COURT IN ITS STATEMENT OF DECISION IN

1 CASE NO. 690211, THE YANNY ONE CASE, OBSERVED THAT
2 DEFENDANT YANNY MANIFESTED, QUOTE, "READY WILLINGNESS TO
3 DISREGARD LEGAL ETHICAL RESPONSIBILITIES OWED TO HIS FORMER
4 CLIENT," CLOSED QUOTE.

5 YANNY HAS APPEARED AS COUNSEL OF RECORD FOR
6 THE AZNARANS ON MATTERS SUBSTANTIALLY SIMILAR TO THOSE FOR
7 WHICH YANNY WAS ENGAGED TO SAFEGUARD FOR HIS CLIENTS THE
8 PLAINTIFFS.

9 THERE IS NO WRITTEN CONSENT BY DEFENDANTS TO
10 DO SO, NOR DOES IT APPEAR THAT PLAINTIFFS WILL EVER
11 CONSENT, AND ON THAT SCORE, YOU WILL SEE PAGES 8855 DAR,
12 8849 IN THE COMPLEX ASBESTOS LITIGATION CASE AS PREVIOUSLY
13 CITED AND IS IN THE POINTS AND AUTHORITIES.

14 THE COURT NOTES IN THE COMPLAINT ALLEGES THAT
15 YANNY REPRESENTS GERALD ARMSTRONG AGAINST THE PLAINTIFFS.
16 THIS FACT IS DISPUTED AND WILL BE DETERMINED AT TRIAL.

17 IN THE INTERIM, THE COURT NOTES THAT THE
18 PLAINTIFFS SEEK A PRELIMINARY INJUNCTION TO PREVENT YANNY
19 FROM REPRESENTING ARMSTRONG IN ANY ACTION AGAINST THE
20 PLAINTIFFS.

21 YANNY, AN ATTORNEY FOR PLAINTIFF, BROUGHT
22 LEGAL ACTION AGAINST -- EXCUSE ME -- STRIKE THAT.

23 YANNY DENIES THAT HE REPRESENTS ARMSTRONG, A
24 FACT WHICH WILL BE DETERMINED AT TRIAL. THEREFORE, YANNY
25 SHOULD NOT BE CAUSED TO COMPLAIN FOR A PRELIMINARY
26 INJUNCTION THAT PREVENTS HIM FROM REPRESENTING ARMSTRONG.

27 FINALLY, MR. YANNY'S STATEMENT OF THE DILEMMA
28 THAT HE FOUND HIMSELF IN WHEN HE CHOSE TO BECOME OF RECORD

1 FOR THE AZNARANS IN THE FEDERAL COURT, IT WOULD APPEAR THAT
2 WITHOUT THE CONSENT OF THE FORMER CLIENTS, THAT IT APPEARS
3 TO BE A MATTER SUBSTANTIALLY SIMILAR TO THOSE FOR WHICH HE
4 REPRESENTED THE CHURCH AGAINST OTHERS, AND ALTHOUGH MR.
5 YANNY INSISTS THAT HE SAW IT HIS DUTY TO BECOME OF RECORD
6 FOR THE AZNARANS, IT APPEARS THAT, AT LEAST FOR THE
7 PURPOSES OF THIS HEARING, THAT MR. YANNY DID VIOLATE THE
8 RULES OF PROFESSIONAL CONDUCT BY NOT OBTAINING CONSENT --
9 AND I SAY, IT APPEARS TO -- AND THAT'S THE POSTURE THAT I
10 MAKE AT THIS TIME -- THAT IS THE RULING THAT I MAKE AT THIS
11 TIME.

12 THEREFORE, THE COURT FINDS THAT THERE'S A
13 LIKELIHOOD THAT THE PLAINTIFFS WILL PREVAIL IN THIS MATTER,
14 AND THAT THE MONEY DAMAGES ARE NOT ADEQUATE.

15 A PRELIMINARY INJUNCTION WILL ISSUE, NARROW
16 IN SCOPE. THAT IS TO SAY, THAT MR. YANNY SHALL NOT
17 REPRESENT THE AZNARANS DIRECTLY OR INDIRECTLY IN ANY CASE
18 AGAINST PLAINTIFFS, IN ANY CASE IN THIS COUNTY.

19 NEXT: YANNY MAY NOT INITIATE ANY LEGAL
20 PROCEEDINGS FOR AZNARANS AGAINST THE PLAINTIFFS WITHIN THE
21 STATE OR FEDERAL COURT OF THIS STATE.

22 NEXT: ANY ACTIONS ALREADY FILED BEFORE JULY
23 31ST, '91 IN WHICH YANNY IS OF COUNSEL FOR AZNARANS SHALL
24 BE SUBJECT TO AN INDIVIDUAL MOTION TO DISQUALIFY IN THAT
25 COUNTY, SHOULD THERE BE ONE.

26 THE POINT IS THAT THIS PRELIMINARY INJUNCTION
27 PRECLUDES YANNY FROM INITIATING ANY CASE WHERE HE IS OF
28 COUNSEL OF RECORD FOR THE AZNARANS IN THIS STATE.

Name, Address and Telephone Number
of Attorney(s)

Attorney(s) for

FILED

JUN 22 1984

John J. Corcoran,

Rosie M. Hart
BY ROSIE M. HART, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF
CALIFORNIA,

VS

GERALD ARMSTRONG,

PLAINTIFF(S)

DEFENDANT(S)

CASE NUMBER

C 420 153

CERTIFICATE OF MAILING
OF COPY OF COURT'S INTENDED DECISION
(Rule 232(a) California Rules of Court)

I, JOHN J. CORCORAN, County Clerk and Clerk of the Superior Court of the State of California for the County of Los Angeles, and not a party to the action, hereby certify that on June 20, 1984, ~~XX~~ I mailed copies of the court's intended decision in the within action to all parties who appeared at the trial by depositing



true copies of the minute order of _____, 19 _____, Department _____ of the Superior Court of the State of California, County of Los Angeles,

Memorandum



true copies of the written ~~statement~~ of intended decision filed herein June 22, 19 84.



true copies of the memorandum of decision filed by the court on _____, 19 _____,

enclosed in sealed envelopes with postage thereon fully prepaid in the United States Post Office mail box at Los Angeles, _____, California, addressed as follows:

SEE ATTACHED EXHIBIT "A"

Dated: June 22, 1984

JOHN J. CORCORAN, County Clerk and Clerk
of the Superior Court of the State of California,
County of Los Angeles

By

Rosie M. Hart
ROSIE M. HART

Deputy

EXHIBIT "A"

Peterson and Brynan
John G. Peterson, Esq.
8530 Wilshire Blvd., Ste 407
Beverly Hills, Ca. 90211

AND

Robert N. Harris, Esq.
617 South Olive Street, Ste. 915
Los Angeles, Ca. 90014

Attorneys for Plaintiff

The Law Offices of Litt & Stormer
Barrett S. Litt, Esq.
3550 Wilshire Blvd., Ste. 1200
Los Angeles, Ca. 90010

Attorneys for Intervenor

Michael J. Flynn, Esq.
12 Union Wharf
Boston, Massachusetts 02109

AND

Contos & Bunch
Julia Dragojevic, Esq.
5855 Topanga Canyon Blvd., Ste 400
Woodland Hills, Ca. 91367-4694

Attorneys for Defendant

1 on June 22, 1984, following trial of the within action, be
2 deemed the Court's Statement of Decision.
3

4 DATED: July 17, 1984

5 CONTOS & BUNCH

6
7 By: 
8 JULIA DRAGOJEVIC
9 Attorneys for Defendant
10 GERALD ARMSTRONG
11
12
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I am employed in the County aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 5855 Topanga Canyon Boulevard, Suite 400, Woodland Hills, California, 91367.

On July 17 1984, I served the within

REQUEST OF DEFENDANT GERALD ARMSTRONG THAT MEMORANDUM
OF INTENDED DECISION BE DEEMED STATEMENT OF DECISION.

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Woodland Hills, California, addressed as follows:

Barrett S. Litt, Esq.
LITT & STORMER
Paramount Plaza
3500 Wilshire Boulevard
Suite 1200
Los Angeles, CA 90010

John G. Peterson, Esq.
PETERSON & BRYNAN
8530 Wilshire Boulevard
Suite 407
Beverly Hills, CA 90211

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 17, 1984, at Woodland Hills, California.

Cheryl Crosland
Cheryl Crosland

Date JULY 20, 1984 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
HONORABLE P G BRECKENRIDGE, JR JUDGE

R HART

, Deputy Clerk

NONE

, Reporter

1. J ANDERSON, COURT ATTENDANT

(Parties and counsel checked if present)

C 420 153
CHURCH OF SCIENTOLOGY OF
CALIFORNIA,

Counsel for
Plaintiff

VS
GERALD ARMSTRONG,

Counsel for
Defendant

MARY SUE HIBBARD - INTERVENOR

NATURE OF PROCEEDINGS: REQUEST OF DEFENDANT THAT MEMORANDUM BE DEEMED
STATEMENT OF DECISION

Plaintiffs not having requested such, the Court grants defendant's motion, and the Memorandum of Intended Decision will henceforth be deemed the Court's "Statement of Decision".

A copy of this minute order is mailed to all counsel.

(1)

DEPT. 57

MINUTES ENTERED

7-20-84

COUNTY CLERK

7. J ANDERSON, COURT ATTENDANT

(Parties and counsel checked if present)

C 420 153
CHURCH OF SCIENTOLOGY OF
CALIFORNIA,
VS
GERALD ARMSTRONG,

Counsel for
Plaintiff

Counsel for
Defendant

MARY SUE HUBBARD - INTERVENOR

NATURE OF PROCEEDINGS:

TRIAL (NJ)

CIVIL AO

X-COMPLAINT SEVERED

(SUBMITTED MATTER)

In this matter heretofore taken under submission on June 8, 1984, the Court renders Its intended decision as set forth in the Memorandum of Intended Decision dated June 20, 1984 and filed this date; said decision is incorporated herein by reference to the court file.

Counsel for defendant is ordered to prepare, serve and file a Judgment on the complaint and the complaint in Intervention in accordance with the Court's Memorandum of Intended Decision; and Statment of Decision, if timely and properly requested.

A copy of the Court's Memorandum of Intended Decision was mailed to all counsel on June 20, 1984.

Clerk's Certificate of Mailing is executed and filed this date.

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cont.

X-C

(7)

DEPT. 57

MINUTES ENTERED

6-22-84

COUNTY CLERK

A PIECE OF BLUE SKY

*Scientology, Dianetics
and L. Ron Hubbard Exposed*

by Jon Attack

A LYLE STUART BOOK
Published by Carol Publishing Group

CHAPTER FIVE

The Religion Angle

Dianetics and Scientology are more a crusade for sanity than they are a business.—L. RON HUBBARD, 1954

The things which have been happening . . . have removed Scientology entirely from any classification as a psychotherapy. . . . We can only exist in the field of religion.—L. RON HUBBARD, "The Hope of Man," 1955

In his autobiography *Over My Shoulder*, publisher Lloyd Arthur Eshbach remembered taking lunch with John Campbell and Ron Hubbard in 1949. Hubbard repeated a statement he had already made to several other people. He said he would like to start a religion, because that was where the money was.

In 1980, Hubbard issued a statement saying Scientologists had "insisted" their organization become a "Church," adding, "It is sometimes supposed that I founded the Church. This is not correct." Perhaps time had affected Hubbard's memory.

The Scientologists maintain that the Church of Scientology of California was their first Church. It was incorporated in California on February 18, 1954, by Burton Farber. In an explanatory letter of the following month, Hubbard said the new "Church" was contracted to the "Church of American Science," to which it paid a twenty percent

original subject once again. He expressed his jubilation in a newsletter to Scientologists, in which he even forgave Purcell, if only for a short time. Purcell had given his own attitude succinctly earlier that year: "Ron's motive has always been to limit Dianetics to the Authority of his teachings. Anyone who has the affrontry [sic] to suggest that others besides Ron could contribute creatively to the work must be inhibited."⁵

Hubbard had learned from his mistakes. He employed a simple method of retaining complete control over his many Scientology and Dianetic corporations. He was not on the board of every corporation, so a check of records would not show his outright control. He did, however, collect signed, undated resignations from directors before their appointment. Hubbard also controlled the bank accounts.⁶

In May 1953, in a "Professional Auditor's Bulletin," Hubbard had written: "It is definitely none of my business how you apply these techniques. I am no policeman ready with boards of ethics and court warrants to come down on you with a crash simply because you are 'perverting Scientology.' If there is any policing to be done, it is by the techniques themselves, since they have in themselves a discipline brought about by their own power. All I can do is put into your hands a tool for your own use and then help you use it."

By 1955, Hubbard's attitude had changed markedly. In one of his most bizarre pieces, "The Scientologist: A Manual on the Dissemination of Material," Hubbard recommended legal action against those who set up as independent practitioners of Scientology, or "squirrels": "The purpose of the suit is to harass and discourage rather than to win. The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly."

Hubbard further urged that Scientologists employ private detectives to investigate critics of Scientology, adding: "we should be very alert to sue for slander at the slightest chance so as to discourage the public press from mentioning Scientology."

During the late 1950s, most of the independent groups either became "Churches," or went out of business. They had accepted Hubbard's direction, and were under contract to his "Hubbard Association of Scientologists International," but Hubbard wanted complete legal control. The franchised "Churches" were gradually absorbed into various organizations controlled directly by Hubbard.

through 1958 and 1959. His family, including his son Nibs and his daughter Catherine, had also withdrawn thousands of dollars. Mary Sue Hubbard derived over \$10,000 income by renting property to the Church. On top of this, Hubbard received his tithes (ten percent, or more) from Scientology organizations throughout the world. Despite Hubbard's pronouncements, Scientology and Dianetics were very definitely a business, a profit-making organization, run by Hubbard for his personal enrichment.¹⁴

Through the 1950s, Scientology tried to develop a good public image. The therapy had become a religious practice, compared by Hubbard to the Christian confessional, and the therapists had become ministers. The trappings of religion were assembled, including ministerial garb complete with dog-collar, and wedding, naming and funeral rites. Hubbard's berserk outbursts were lost amid a welter of new auditing procedures. His paranoia was better contained, though Church leaders were told to cease communication with critics of Scientology whom Hubbard called "Merchants of Chaos," the beginnings of the doctrine of "disconnection."¹⁵

To the general public, Scientology was represented as a humanitarian, religious movement, intent upon benefiting all mankind. Its opponents were dangerous enemies of freedom, and were tarred with unfashionable epithets such as communist, homosexual, or drug addict. Opponents were portrayed as members of a deliberate conspiracy to silence Hubbard, and bring down the "shades of night" over the Earth.¹⁶

To its membership, Scientology was represented as a science, liberating man from all his disabilities, and freeing in him undreamt abilities. To the Church hierarchy, Scientology was the only hope of freedom for mankind, and must be protected at all costs. Hubbard was nothing short of a Messiah, whose wisdom and perception far outstripped that of any mere mortal. Hubbard's commandments might at times be unfathomable, but his word was law.

The Hubbard Communication Office *Manual of Justice* laid down the law for Scientology staff members. In it Hubbard wrote: "People attack Scientology; I never forget it, always even the score."

The *Manual of Justice* introduced a comprehensive "intelligence" system into Hubbard's organizations. Hubbard wrote: "Intelligence is mostly the collection of data on people which may add up to a summary of right or wrong actions on their part. . . . It is done all the

think. Dianetics and Scientology are self-protecting sciences. If one attacks them one attacks all the know-how of the mind . . . There are men dead because they attacked us—for instance Dr. Joe Winter. He simply realized what he did and died. There are men bankrupt because they attacked us—Purcell, Ridgway, Ceppos [Ridgway and Ceppos published *Dianetics* in England and the U.S. respectively].

In the *Manual*, Hubbard's suggested punishments were actually mild, consisting largely of the cancellation of any certificates awarded by his organizations. He suggested that an organization "shoot the offender for the public good and then patch him up quietly." A mood was being created in which staff members would become "deployable agents," as sociologist Roy Wallis called Hubbard's henchmen in his excellent study of Scientology. After all, Hubbard never gave any indication of the possibility that a complaint against him or against Scientology could be justifiable. The tactic of "noisy investigation" originated in the *Manual*, and came to mean harassment by defamation. Hubbard certainly did not mind if the defamation was grossly exaggerated, or even a total fabrication. If you throw enough mud, some will stick. The *Manual of Justice* clearly suggests outright blackmail.

The Scientology organizations grew steadily, and, in the spring of 1959, Hubbard purchased the Maharajah of Jaipur's English manor house and estate in the beautiful Sussex countryside, at Saint Hill village, a few miles from East Grinstead.

A PIECE OF BLUE SKY

*Scientology, Dianetics
and L. Ron Hubbard Exposed*

by Jon Atack

A LYLE STUART BOOK
Published by Carol Publishing Group

What Is Scientology?

Scientology is among the oldest, largest, richest, and most powerful of contemporary cults. The "Church" of Scientology, first incorporated in 1953, claims to have seven million members, and reserves of a thousand million dollars. There are nearly 200 Scientology "Missions" and "Churches" spread across the globe.

During the 1970's, cults became big business and big news. Yet in the welter of books published about these "new religious movements," there has been no real history of Scientology. This is rather surprising, because the history of Scientology is at turns outrageous, hilarious and sinister. Accurate information about Scientology is scarce because the cult is both secretive and highly committed to silencing its critics.

A few sociologists have argued that involvement in any cult is usually short-lived and sometimes beneficial. However, after four years of research, including interviews with over a thousand former cult members, researchers Conway and Siegelman came to very different conclusions about Scientology: "The reports we have seen and heard in the course of our research . . . are replete with allegations of psychological devastation, economic exploitation, and personal and legal harassment of former members and journalists who speak out against the cult." Making a comparison with the tens of other cults in their study, they said: "Scientology's may be the most debilitating set of rituals of any cult in America."²

Scientology, a peculiar force in our society, escapes tidy definition. The "Church" of Scientology claims religious status; yet at times Scientology represents itself as a psychotherapy, a set of business techniques, an educational system for children or a drug rehabilitation program. Officers of the Church belong to the largely landbound "Sea Organization," and wear pseudo-Naval uniforms, complete with campaign ribbons, colored lanyards, and badges of rank, giving Scientol-

ogy a paramilitary air. Although Scientology has no teachings about God, Scientologists sometimes don the garb of Christian ministers. The teachings of Scientology are held out not only as scientifically proven, but also as scriptural, and therefore beyond question. Scientology was also the first cult to establish itself as a multinational business with marketing, public relations, legal and even intelligence departments.

Scientology is also unusual because it is not an extension of a particular traditional religion. It is a complex and apparently complete set of beliefs, techniques and rituals assembled by one man: L. Ron Hubbard. During the 36 years between the publication of his first psychotherapeutic text and his death in 1986, Hubbard constructed what appears to be one of the most elaborate belief systems of all time. The sheer volume of material daunts most investigators. Several thousand Hubbard lectures were tape-recorded, and his books, pamphlets and directives run to tens of thousands of pages.

In 1984, judges in England and America condemned both Hubbard and Scientology. Justice Latey, in a child custody case in London, said: "Deprivation of property, injury by any means, trickery, suing, lying or destruction have been pursued [by the Scientologists] throughout and to this day with the fullest vigour," and further: "Mr. Hubbard is a charlatan and worse as are his wife Mary Sue Hubbard . . . and the clique at the top privy to the Cult's activities."

In America, dismissing a case brought against a former member by the Scientologists, Judge Breckenridge said: "In addition to violating and abusing its own members' civil rights, the organization over the years . . . has harassed and abused those persons not within the Church whom it perceives as enemies. The organization clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH [L. Ron Hubbard]. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background and achievements. The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile."

The evidence cited by Judge Breckenridge consisted of some 10,000 pages of material forming part of Hubbard's personal archive, including his teenage diaries, a black magic ceremony called the "Blood Ritual," and hundreds of personal letters to and from his three wives. Some of these documents were read into the record, and others re-

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leased as exhibits. The picture they reveal is very different from Hubbard's representations about his life.

Nevertheless, Hubbard's personal history is one of the great adventure stories of the 20th century. A penny-a-word science-fiction writer who created an immense and dedicated organization to act out his grandiose ideas on a global scale, Hubbard commanded the devotion of his followers, who revere him as the greatest man who has ever lived. At the height of his power, Hubbard controlled a personal intelligence network which successfully infiltrated newspapers, medical and psychiatric associations throughout the world, and even a number of United States government agencies. Eleven of Hubbard's subordinates, including his wife, received prison sentences for their part in these criminal activities.

There is also something tantalizing in the psychotherapeutic techniques which are at the core of Scientology. Cult devotees are sometimes seen as adolescent, half-witted zombies easily coerced into joining an enslaving group because of their inadequacy. But Scientology has attracted medical doctors, lawyers, space scientists and graduates of the finest universities in the world. One British and two Danish Members of Parliament once belonged to Scientology. Even psychologists, psychiatrists and sociologists have been enthusiastic practitioners of Hubbard's techniques. And such people have often parted with immense sums of money to pay for Scientology counselling which can cost as much as \$1,000 per hour.

Hubbard's ideas have inspired many imitators, and several contemporary "psycho-technologies" and New Age movements derive from Scientology (est, eckancar and co-counselling, for example).

Any assessment of Scientology is further complicated because it has demonstrably been the target of harassment. A Tax Court judge admitted in a ruling that the IRS had investigated Scientologists solely because they were Scientologists. Governments have panicked and over-reacted: for example, for several years in three Australian states the very practice of Scientology was an imprisonable offence.

The secret inner workings of Scientology have long been zealously guarded, but in 1982, two years after Hubbard disappeared into complete seclusion, a purge began and the Church began to disintegrate. Hundreds of long-term Scientologists, many of whom had held important positions within the Church, were excommunicated and expelled. They were placed under the interdict of "Disconnection," whereby other Scientologists were prohibited from communicating with them in

any way. At a rally in San Francisco, young members of the new management harangued and threatened executives of Scientology's franchised "Missions." While the newly created International Finance Dictator spoke, his scowling, black-shirted International Finance Police patrolled the aisles. Huge amounts of money were demanded from the Mission Holders. In the following weeks, Scientology's Finance Police swooped down on the Missions collecting millions of dollars and almost bankrupting the entire network.

Hubbard had styled himself the "Commodore" of his "Sea Organization," and by 1982, the new leaders, some still in their teens, were members of the "Commodore's Messenger Organization." Many of these youngsters had been raised in Scientology, separated from their parents, originally working as Hubbard's personal servants.

Anonymous letters describing incredible events circulated among Scientologists. We read about Gilman Hot Springs, a 500 acre estate in south California, surrounded by high fences, patrolled by brown-shirted guards, and protected by an elaborate and expensive security system. We heard accounts of bizarre punishments meted out at this supposedly secret headquarters. A group of senior Church executives had been put on a program where they ran around a tree in near desert conditions for twelve hours a day, for weeks on end. Some Scientologists gave accounts of their treatment at the hands of the International Finance Police, where they had been abused verbally and physically, sometimes signing over huge amounts of money before coming to their senses.

During this reign of terror, thousands of Scientologists left the Church, believing that Hubbard was either dead or under the control of the Messengers. These new "Independent" practitioners of Scientology were subjected to prolonged and extensive harassment and litigation. Private Investigators followed important defectors, sometimes around the clock for months. The Church widely distributed scandal sheets packed with fabricated libels concerning defectors.

The essential question which plagued Scientologists who had left the Church was whether Hubbard knew what was happening. By the time Hubbard's death was announced in January 1986, many Scientologists believed his body had been deep-frozen for several years. Others believed he was still alive, that the coroner had been bribed, and that his death had been staged to escape the net of the Criminal Investigation Branch of the Internal Revenue Service, which was investigating

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the transfer of hundreds of millions of dollars of Church funds into Hubbard's personal accounts.

As part of its campaign to stem the tide of defectors, Scientology brought law suits against several former members. In return, multi-million dollar counter-suits were filed against Scientology. In 1986, a Los Angeles jury awarded \$30 million in damages to a former Church member. On the last day of 1986, a group of over 400 former members initiated a billion dollar suit against the Church.

Former highly-placed Hubbard aides broke silence for the first time. The documentary evidence referred to by Judge Breckenridge pierced the self-created fantasy of Hubbard's past. The sinister reality beneath the smiling mask of the Church of Scientology was at last revealed.

CHAPTER TWO

The Scientologist

But in an open Society, such as ours, people can believe what they want to and band together and promulgate their beliefs. If people believe that the earth is flat there is nothing to stop them believing so, saying so and joining together to persuade others.—JUSTICE LATEY

Hubbard cast his net wide. Scientology has attracted people from most social and intellectual backgrounds, from laborers to lawyers, from plumbers to university professors. Frederick L. Schuman, professor of political science at Williams College, was an enthusiastic convert, and publicly defended Dianetics in 1950, though he soon changed his tack and distanced himself. There were psychologists working in the original Foundations; in fact, the New York Foundation was started by psychologist Nancy Rodenburg. Fritz Perls, founder of Gestalt therapy, defended Hubbard's early work (though insisting that it needed scientific validation), and briefly received Dianetic counseling.

British Member of Parliament William Hamling, and former Lieutenant-Governor of Western Nigeria, Sir Chandos Hoskyns-Abrahall, have already been mentioned. Two Danish MPs were Scientologists at one time. Several NASA scientists have belonged to the Church. Dr. J.L. Simmons, who lectured in sociology at the Universities of Illinois and California, wrote an appendix to Roy Wallis's *Road to Total Freedom* sharply criticizing both the author's approach

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and his conclusions. At the time, Simmons was a convinced Scientologist; since leaving the Church he probably regrets aspects of his statement. Research physicist, and former Stanford professor, Harold Puthoff, was also a member of the Church. Puthoff, who holds several patents for laser developments, is best known for his books on parapsychology co-written with Russell Targ. Ingo Swann, who was the subject in some of Puthoff and Targ's parapsychology experiments, was a member of the Church for some years. His novel *Star Fire* was a best seller. Another Scientologist also achieved best seller status with a novel about reincarnation.

A group of Oxford graduates were long-term members. A number of medical doctors, dentists and lawyers have been involved. Over the years Scientology has also boasted the adherence of several celebrities. Virtuoso jazz pianist Chick Corea, a member since 1968, is an OT, as is Stanley Clarke, the highly influential jazz bass player. Clarke has left the Church, but Corea remains in the fold. The Incredible String Band were Scientologists, and distributed Scientology literature at their gigs. Actors John Travolta and Karen Black are both Church members, as is "Waltons" star Judy Norton-Taylor. Priscilla Presley has been involved for many years, and Elvis' daughter, Lisa Marie, is a Sea Org member. Van Morrison was associated with Scientology for a short while. The novelist William Burroughs went Clear in the 1960s, but later satirized the movement in several novels. Scientology has also attracted many millionaires, and several multi-millionaires.

Most cults have a single selling feature, and so tend to appeal to a specific public. Scientology claims to be all things to all people: a psychotherapy, a religion, twentieth-century Buddhism, an educational system, a drug rehabilitation therapy, a human rights and social reform movement, or a business management system. It is spiritual, mental or material according to the mind-set of the person being approached. Scientology front groups appeal to different publics. Scientologists are drilled to quickly isolate an individual's concerns and tailor an approach which encourages interest.

The most contentious of these self-made characterizations is that of religion. Whether Scientology is a "religion" is a matter of definition. Because of the very broad nature of the definition of religion in the United States, it has been established that Scientology is a religion in the legal sense. However, in the United States religious status does not automatically give an organization tax-exemption, which Scientology has failed to achieve. In Australia, Scientology is also recognized as a

religion, though the court there added "Regardless of whether the members of the applicant [the Church of Scientology] are gullible or misled or whether the practices of Scientology are harmful or objectionable." English law differs, and accords with the dictionaries: a religion is committed to acts of worship. Scientology has none, but claims to be a religion in the same sense as Buddhism, without a deity or deities, and consequently without worship. Lord Denning set a precedent in England by agreeing that Scientology could indeed be compared to Buddhism, which, because it has no act of worship, is not legally a religion, but a philosophy or way of life.

Scientologists are willing to see their practice as a psychotherapy or as a religion, but few would acknowledge that it is a belief system. They are convinced that it is a science, based upon Hubbard's intense research. This is simply untrue. In thirty-six years Hubbard failed to produce a single piece of work which meets acceptable scientific criteria.

The techniques of Scientology are loosely embedded in a sometimes tortuous philosophy. At the core of this is a relatively simple cosmology which starts with the first three "Factors of Scientology." These give Hubbard's explanation of the origin of life:

1. Before the beginning was a Cause and the entire purpose of the Cause was the creation of effect.
2. In the beginning and forever is the decision, and the decision is TO BE.
3. The first action of beingness is to assume a viewpoint.¹

From this viewpoint the universe is perceived. The first "Axiom" of Scientology is "Life is basically a static," which has "no mass, no motion, no wavelength, no location in space or in time. It has the ability to postulate and to perceive."

The Life Static is most usually called a Thetan. The Thetan is immortal and does not owe its origin to God. It is perpetually individual.² After the beginning, Thetans generated "points to view," or "dimension points" which caused space to come into existence. Thetans agreed that other Thetans' dimension points existed, and that agreement brought about Reality. Reality, indeed the entire universe, is an "agreed upon apparency," and all matter, energy, space and time (MEST) exists because Thetans agree it exists. But for continued

existence there has to be a lie ("alter-is-ness") in the fabric of these aspects of Reality, for if anything is seen exactly as it is ("as-ised") it will cease to exist. Reality, to the Scientologist, is a communal daydream.

Thetans are all-knowing beings, and became bored because there were no surprises. Hubbard asserted that the single most important desire in all beings is to have a "game." To have a "game" it was necessary to "not know" certain things, so certain perceptions were negated ("not-is-ed"). More and more perception and knowledge had to be abandoned as time passed, and some Thetans started the "game" of creating traps for other Thetans. Believing it possible to harm others, Thetans learned contrition, and punished themselves for their own "harmful" acts. An ongoing part of this self-imposed punishment is dwindling perception.

One universe ended and another began, and there have been many universes, each more solid and entrapping than the last. An essential part of the game was the "conquest" of matter, energy, space and time by the life force, Theta. In each universe Thetans have become more enmeshed in matter, energy, space and time (MEST), to the point where many have identified themselves totally with it, and consider themselves nothing but MEST. Thetans are by now in a hypnoid state, having forgotten their quadrillions of years of existence and their original godly power, barely capable of even leaving their bodies at will.

Thetans nevertheless have the power of "postulate." Whatever they intend comes into being. Negative decisions and opinions, or "bad postulates," generate a negative destiny. For quadrillenia, Thetans have been "implanting" one another with hypnotic suggestions, and clustering other Thetans together (turning most into "body-Thetans"). Scientology seeks to undo "other-determinism," and return the Thetan to "self-determinism," and eventually to "pan-determinism" where he acts for the good of all.

Most of these ideas can be found elsewhere. "Before the beginning was a Cause" is highly reminiscent of the central premise of the Tao Teh Ching. In the Bhagavad Gita, Krishna teaches Arjuna that he is immortal and imperishable, that life is a game, and that in truth no harm can be done to others, as they too are immortal and imperishable. The comparable word for "Thetan" is "atman." The doctrine of reincarnation is common to several major religions. That we reap as we have sown, or karma-vipaka, even more so. The emphasis upon the development of Intention, or the ability to postulate, in Scientology

comes straight from Crowley's "thelema" or Will, upon which most magical systems concentrate.

To sum up: Hubbard saw the individual's current state as a fall from grace, but the individual's own grace, not that of God. He saw the Thetan as an all-capable individual, who has gradually restricted his powers, over "quadrillions" of years, in part to have a "game," and in part for fear of hurting others. He called this degeneration the "dwindling spiral." In Scientology counselling, the Preclear is directed back to incidents in his past existences which have shaped his way of thinking (and consequently his current circumstances). A better future is to be obtained by release from quadrillenia of long forgotten conditioning and guilt. Sociologists use the term "neo-gnosticism" to describe such beliefs when they are allied to a supposed system of enlightenment (many of the original Christian gnostic sects spent their time learning the passwords which would give them entry to heaven after death).

The more indoctrination into Hubbard's ideas they receive, the more Scientologists fall in with his view of universal history. When first reviewing "past lives" in counselling, famous lives will be offered. There are many Napoleons and Christs. Several Guardian's Office staff have told me that they felt they were paying for the harm they had done in former lives as Gestapo or SS officers. With more indoctrination, the individual starts to offer incidents which occurred in outer space, and at "implant stations." Even so, no one is required to accept Hubbard's cosmology wholeheartedly until the Operating Thetan levels. OT3 is the point of departure. If you refuse to believe in Xenu or the body thetans you can go no further. The courses leading up to OT3 (specifically Grade 6, the clearing Course, and OT2), are actually part of the same conception, but their mystifying procedures are not explained until OT3, when the individual learns he has been dealing with OT3 implants, which had to be relieved before it was safe to reveal the horrible truth of the entire incident. At any given time, the majority of Scientologists have not done OT3, so will not know its content. To them it is a mysterious and compelling promise of future liberation, but deadly to the unprepared. In over twenty years, only a few thousand people have actually done OT3, many deciding it was of questionable value at least, and mind-bending at worst. The secret OT levels up to OT8 are simply extensions of the Body-Thetan idea (sleeping Body-Thetans, Body-Thetans in parallel universes, and so forth).

Certain tenets are essential to Scientology. The first is the assumption that Man is basically good (although this does not extend to critics of Scientology, even those who helped to create and sustain the movement. Those who criticize Scientology are irrevocably evil). Scientology aims to raise the Emotional Tone Level of the individual to Enthusiasm and beyond. Scientologists believe that any problem, whether physical or mental, exists because there is some distortion in their perception of it (the lie or "alter-is-ness" which brings about persistence). They are positive thinkers, believing that their "postulates" will come true, and seeing their failures in life as simply failures to postulate with sufficient conviction. To paraphrase Hubbard: considerations are senior to the mechanics of matter, energy, space and time. So the Scientologist sees all problems, including his own, as essentially mental, and self-generated. Scientologists have an optimistic persistence, allied to acute gullibility. OTs have died of cancer believing they could postulate it away, avoiding proper medical action.

Despite its claims to be nondenominational, and to welcome members of all religions, Scientology is essentially anti-Christian. In confidential materials Hubbard attacked Christianity as an "implant," and said that Christ was a fiction. He railed against "priests."³ The belief in reincarnation is also necessary for progress through even the early levels of Scientology. Hubbard's Scientology morality is opposed to Christianity. Certain basic Christian values are despised by the Scientologist, who considers them misconceived. Humility is supplanted by self-pride. Searching self-criticism is considered dangerous ("never disparage yourself," to quote Hubbard).⁴ Material wealth is a virtue. Charity creates dependence. In Scientology, there is no concept of God, nor of grace. The Scientologist is in every respect a self-made Thetan.

Nor is Scientology compatible with the beliefs of other faiths. A Buddhist, for example, could not truly be a Scientologist. The core of Buddhism is the disintegration of the self (anatta), where Scientology believes the self to be all-important and perpetual. Hubbard dismissed yoga and all other mystical systems as traps: "Data from India, even that found in the deepest 'mysteries' . . . is knowingly or unknowingly 'booby-trapped.'"⁵ While receiving counseling the Scientologist is prohibited from other practices, including meditation. There are specific steps in auditing to erase adherence to other systems and beliefs. Scientology is the only way. Recently, the Scientologists have trotted

out one of their number who is a Catholic priest. He says there is no conflict, but has a surprise in store on the OT levels.

Hubbard also insisted upon "exchange." Despite Church claims, no one has ever told me that they received even an hour of charity auditing from the Church. In Scientology, it is considered immoral to do something for nothing. The starving and the crippled are seen as living out self-generated misfortune. Coupling this to Hubbard's philosophy of exchange, Scientologists do not usually give to charity, except to Scientology causes, or in the interests of public relations (the "exchange" being the generation of public goodwill towards Scientology). This can result in an alarming lack of fellow feeling.

On first meeting, most Scientologists have a friendly demeanor, but this is unsurprising in a group so eager to gain converts. To promote a practice which supposedly brings about cheerfulness, it is necessary to appear cheerful. Sea Org members are trained to be friendly to the public, but behind closed doors they are ruthless and scream at their subordinates, giving them "severe reality adjustments." Some have a private conceit that they are the elect, seeing even their own paying public as no more than cattle to be milked.

Scientologists are often self-confident and self-assertive. They are not allowed to discuss their "cases" (difficulties), and are discouraged from even thinking about personal problems outside the counselling room. They are also prohibited from entering into detailed discussions of Scientology ("verbal Tech"), and from voicing criticism of Scientology. This can lead to a suspension of the analytical faculty, especially as it applies to self-observation and self-criticism. Scientologists often take vitamins instead of medicinal drugs, even avoiding aspirin. Hubbard was not averse to sleeping with female students, though he did so discreetly, until the mid-1960s. Promiscuity was not unusual, though by no means the norm in Scientology into the early 1970s. By the time I joined, in 1974, these days were over. I did not find Scientologists especially prudish, though Sea Org members are prohibited from sexual relations with anyone except their legal spouse. Homosexuality is outlawed; Hubbard insisted that the Emotional Tone Level of a homosexual is "covert hostility": they are backstabbers, each and every one.

Scientologist communities have a limited social life; there is simply no time. Staff members are hard at work bettering their stats, and public Scientologists are hard at work to pay off the loans they've

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taken out for exorbitantly priced Scientology courses. The work ethic prevails. Wealthy people and celebrities are doted upon by Sea Org members.

There are financial benefits in selling Scientology to others. Field Staff Members (FSMs) are paid a ten percent commission on any counselling, and a fifteen percent commission on any training they sell. There are even a few Scientologists who have derived their entire income, and paid for their own Scientology, by working as FSMs. Scientology "Registrars" (sales staff) are openly trained in hard sell techniques. They believe in the power of Scientology to such an extent that they will push individuals into financially disastrous situations, and many people have been financially ruined by Scientology. There is a widespread belief that people will automatically become capable of repaying loans after they have taken the Scientology courses or counselling those very loans paid for. The Registrars receive a sales commission, and are usually the only people in an Org who make anything like a living wage.

Recruitment for staff is a constant pressure on public Scientologists. There is a push to "recruit in abundance," to use Hubbard's expression. Students are carefully routed through various sections of the Organization when starting and finishing a course. Recruitment is built into the "routing form" at the end of every course. The majority of Scientologists spend some time on staff.

Most Scientologists genuinely want to improve society. They fervently believe their ideology is the only hope for a better world. Hubbard's motives are highly questionable, but the motives of the great majority of Scientologists are good. They wish to make people happier and more capable. Nothing in their philosophy jars with receiving a commission for doing so, though most take their commission in Scientology "services."

In some respects, Scientology is a philosophy well-suited to the last phase of the rapacious Industrial Age. It glorifies personal wealth, and teaches people that they are not responsible for the condition of the world. It is geared for the high speed of modern society, raising statistics and increasing production, concentrating on quantity at the expense of quality. It is also claimed to be virtually "instant," though after decades of noisy claims the Scientologists are still incapable of producing anyone who meets the criteria laid out for a Clear in Hubbard's original book, *Dianetics: The Modern Science of Mental*

Health. Some Scientologists have given almost forty years of their lives, and enormous sums of money, without attaining any of the promised abilities of the state of Operating Thetan.

Membership of Scientology is split into distinct categories. Having become involved, some people remain "public" Scientologists. They pay for their auditing and training and do not become staff members. Because they cannot afford the exorbitant cost of Scientology, many join the staff of a Mission or Org. A large proportion go on to join the Sea Organization. The majority leave the Sea Org within a few months, and end up paying huge amounts in "Freeloader Bills" for the Sea Org training they received, before they are allowed to receive any more Scientology. All Scientology staff members are under contract, and a Freeloader Bill is imposed on anyone who leaves before their time is up—whether it be the two-and-a-half- or five-year staff contract, or the Sea Org's round billion. Freeloader Bills often amount to tens of thousands of dollars. Those who fail to join or drop out of the Sea Org often feel guilty or inadequate.

As well as the distinction between public and staff Scientologists, there is a divide between those who have taken OT levels and those who have not. At any given time, the majority of Church members will have no idea of the contents of the secret OT levels. They adulate OTs, believing them capable of all sorts of magical feats or "OT abilities." It is amazing how well this mystique is maintained, as in Scientology there are no credible demonstrations of paranormal abilities. Bathing in this admiration, many OTs begin to feel they really do have psychic powers. Most encourage the uninitiated to believe their fantastic notions about the state of "OT." Dissatisfied OTs usually believe that their inability to perform is their own fault, and avoid disabusing others of the beliefs Hubbard has given them about OT.

After years of claims about the powers of OTs, Hubbard redefined the state in 1982. He said the available OT levels were actually a preparation for *real* OT levels, which were yet to be released. Even so, each level confers a new status upon the recipient, and the OT is convinced he guards a dangerous secret. OTs usually believe they are influencing events through psychic power.

A set of beliefs can create a community which is almost a nation apart. This is certainly true of Scientology. Comparison with real nations, and their agencies, sheds a different light on the behavior of the Scientology community. While the totalitarian system of the Communist bloc provides far closer parallels with the authoritarian and

absolutist nature of Scientology, Hubbard's roots were in North American soil. The tremendous virtues of the Freedom of Information Act, and of Congressional hearings, have made knowledge of U.S. government agencies' malpractices available, and individuals have been allowed to speak out against abuses. Watergate, Irangate and revelations about the CIA's violations of international law have drastically altered public opinion. It became obvious in the 1970s that immoral means were being used in an attempt to maintain and extend the American dream of a democratic world of free opportunity. The public Scientologist, and most staff, are in the position of the American public before this information became known. They believe that the Church exists to "Clear the planet," and create an ethical society. As with the pursuit of the American dream, the truth shows an ideal severely tarnished.

While Hubbard was alive, he was more than a president, he was an absolute dictator, controlling Scientology through the Sea Org and the Guardian's Office, using each to check the other. He found that he could direct his organizations to undertake even immoral and criminal acts by claiming them to be the "greatest good for the greatest number of dynamics." Hubbard was also the sole legislator, creating the law for Scientologists. There was no Congress, no democratic body, no independent justice system, no single Church official with real power.

Since Hubbard's death, control seems to have passed to David Miscavige, who directs the Church through the Sea Org. Since its inception in 1967, the Sea Org has been organized as a para-military unit. It concentrates on the expansion of Scientology through the strict application of orders from the executive. Sea Org members sign a Code of conduct which begins, "I promise to uphold, forward and carry out Command Intention." The Sea Org has largely been involved in the creation and maintenance of Scientology Orgs, providing Scientology training and counselling.

The Sea Org manages the Orgs, and, more loosely, the Missions. The Orgs and Missions have no hand in management, and are ill-informed of its activities.

Until it passed into the hands of the Commodore's Messengers, the Guardian's Office was the most powerful organization in Scientology. The GO contained the Legal, Financial, Public Relations and Intelligence (or, euphemistically, "Information") departments, as well as the "Social Coordination Bureau." By 1983, the GO Bureaus had been separated from one another, and absorbed along with the Sea Org under the Messengers' control.

The Public Relations department exists to combat bad press and emphasize successes. It simply does not report any of the many failures to public Scientologists. If a court case is lost, or a government closes Orgs down, Scientologists will generally hear of it only if the media reports it. Moreover, Scientologists are discouraged from reading newspapers. When an event has to be commented on, the PR department follows the time honored practice of "plausible denial" favored by so many politicians. Free nations have the advantage of a free press, this is not so in the Scientology community. Only during the periods of extensive splintering (in the early 1950s, the mid-1960s and the 1980s) has there been anything like an independent press trying to inform Scientologists of the inadequacies and the crimes of the Scientology Church. So, Scientologists outside the PR Bureau have a very incomplete picture.

When PR fails, the Legal department takes over, at least in theory. Its mission is to block any criticism of Scientology. Governments, too, seek to stifle opposition, and leaks of discreditable information. This is particularly obvious in the totalitarian Communist countries, but even Western Europe and the U.S. are not free from such practices. Ex-CIA agent Victor Marchetti's supposed Constitutional right to free speech was withdrawn by the Courts, when he was prohibited from making any statements about the CIA without their approval. When it happened this was a novel and a unique situation for the U.S.A. In Britain, it is illegal for any government employee to reveal information gained during his employment, under the draconian Official Secrets Act. The clumsy efforts to prevent the publication of Peter Wright's *Spycatcher* show the lengths to which even a Western government will go to stifle criticism. Scientology, too, uses the courts in an attempt to silence opposition.

Where the Legal department fails, it is time for Intelligence, with its branches of covert and overt data collection. This was Hubbard's personal CIA, and details of its modus operandi came as a shock not only to public Scientologists, Org staffs and Sea Org members, but even to many Guardian's Office staff. As with an Intelligence Agency, information is only distributed on a need to know basis. Intelligence Agencies too perform immoral acts justified as being for the "greatest good for the greatest number."

By keeping the compartments of Scientology separate, Hubbard ensured that no one would have a complete and true picture. An individual can only act on the information he has, the combination of

his experience and his belief. The PR department censors and distorts information, and feels justified in doing so on the grounds that passing on bad news is a characteristic of the Suppressive. So Scientologists generally have little accurate information. Whatever their feelings about the Organization, Scientologists are convinced they have experienced psychological and spiritual benefits, and feel more secure than they did before joining Scientology. Scientologists are also convinced that they belong to the only group which can save Mankind.

Eric M. Lieberman, Esq.
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway, Fifth Floor
New York, NY 10003-9518

August 21, 1991

Dear Mr. Lieberman:

Organization operatives filmed me yesterday at least in the following situations:

1. Talking to an employee of attorney Ford Greene, in the doorway to Mr. Greene's office, at 711 Sir Francis Drake in San Anselmo, California.

2. Walking outside Mr. Greene's office.

3. Pulling on a T-shirt outside Mr. Greene's office.

4. Running outside Mr. Green's office.

Whilst I was on foot I was also pursued by one of the operatives driving a white Cadillac.

The driver of the Cadillac was later confronted by Mr. Greene who also recorded the licence number of Cadillac and the other vehicle being used by the operatives.

I doubt that you find it hard to believe that I consider the organization's operation has as its major target in the eval known but to two or maybe three or even four the assassination of Gerry Armstrong.

I am not unmindful of your use of the earlier videotape event in your Petition For Rehearing filed in the Armstrong appeal (n. 1, p. 6, second edition; n. 2, p.5, first edition).

There was no reason to videotape me as proof that I was associating with Ford Greene. I had spoken the day before to two of your fellow org lawyers, Laurie Bartilson and Bill Drescher, and two men from SO legal liaison staff, Howard Gutfeld and August Murphy, and from none of whom had I withheld the fact that I was helping Mr. Greene. None of them were not aware that I was speaking to them from Mr. Greene's office because all of them except for Mr. Murphy called Mr. Greene's office and I had spoken to

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them when I answered Mr. Greene's telephone to take messages for him while he was out of his office. Mr. Murphy spent some time in Mr. Greene's office and we spoke for a few minutes. I am quite certain he left with the impression that I was helping Mr. Greene, and specifically in the Aznaran case since, in addition to my saying so, he did observe me carrying into Mr. Greene's office two boxes containing the mega-copies of the two Oppositions to Summary Judgment Motions (Statute of Limitations and First Amendment) and related documents, and did hear me lament that his organization had cost Mr. Greene that very day over seven hundred dollars in copying costs.

I did note the sophrosynial shift in the two writers of the second edition of the Petition For Rehearing. I imagine the organization's idea of having Marty talk to me is not in the works.

I'm sure you understand why I do help those who need it, and why people who litigate with the organization need it. And I'm sure you know how utterly unbiased I am in that all I oppose are antisocial policies and activities. In that Scientology denies that any of its policies or activities are antisocial I am not opposed in any way to what Scientology says it is and says it does. I am only opposed to antisocial policies and practices.

It is really a matter of logistics. Your organization scares people. It scares me. There are therefore few people willing to do what needs to be done regarding the organization. I am simply willing to do what I can no matter how scary it is. If there were not so many people afraid of your organization I wouldn't need to do what I can to help.

As you know, the organization has at times terrorized me, it has a policy of revenge, its present owners have a personal hatred for me, and it has acted with its fair game doctrine directing its attitude and acts toward me since and in violation of the settlement. Obviously, then, it is in every way reasonable for me to associate with and help those who have the courage to oppose the organizational beast.

Then there's the religious argument. And its legal corollary: if antisocial acts are religious, then so must be any opposition to antisocial acts.

Then there's the matter of theology.

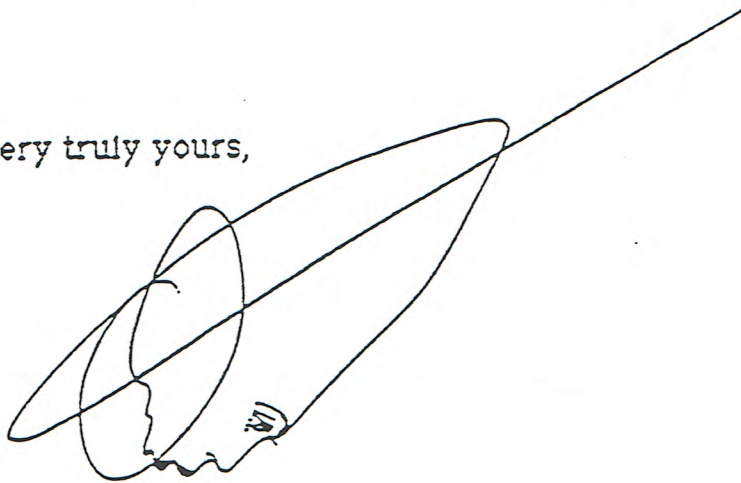
All of which brings me to the matter at hand. You know about compartmentalization, PIs, cutouts, lies and paranoia. There probably are things which can be done to bring the organization's self-destructive

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insitutionalized hatred to a peaceful conclusion. Although you exhibit in your most recent descriptions of me and in your willingness to go beyond mere factual twists, a new and greater animus, I still have an idea that you can do something.

I trust you'll reply.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Gerry Armstrong', is written over a large, loopy, and somewhat illegible scribble. The signature is positioned to the right of the closing 'Very truly yours,'.

Gerry Armstrong
(415)456-8450

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SCIENTOLOGY'S WAR AGAINST JUDGES

BY JAMES B. STEWART, JR.

On September 5, 1980, as U.S. District Court Judge Charles Richey was recuperating from two pulmonary embolisms and exhaustion, lawyers for the Church of Scientology and the Justice Department gathered before Judge Aubrey Robinson, Richey's successor in the two-year-old conspiracy case against 11 members of the Church of Scientology. Judge Richey had already convicted and sentenced nine of the original 11 defendants, but the remaining two, recently extradited from England, were about to go on trial.

"Particularly from the standpoint of your Honor's feelings about these defendants who are members of the Church of Scientology..." began John Shorter, Jr., a lawyer for one of the defendants. He was interrupted by Judge Robinson. "You want to raise a motion to recuse?" the judge asked. He knew what Shorter's remark foreshadowed, having witnessed the Scientologists' campaign to drive Judge Richey off the case. "Is this a fishing expedition?"

Robinson is the fourth D.C. district court judge to preside over the Scientology case and the latest target of the Scientologists' self-proclaimed "attack" litigation strategy. Their strategy amounts to an all-out war against the D.C. district court judges, a war much more sophisticated, better financed and more successful than the bizarre tactics used by some other groups against their courtroom adversaries, such as Synanon's attempt to murder an opposing counsel by putting a rattlesnake in his mailbox.

Unlike Synanon, the Church of Scientology has long sought to distinguish itself as a legitimate religion. Founded in 1954 by L. Ron Hubbard, a science fiction writer, philosopher and author of the best-selling book *Dianetics: The Modern Science of Mental Health*, the church claims five million adherents to its self-help philosophy. The Church of Scientology has called itself the spiritual heir of Buddhism in the western world, and focuses on what it calls "pastoral counseling" to increase its members' abilities and awareness.

But in the past few years, the church has been accused of brainwashing and harassing its members, and it has become embroiled in dozens of lawsuits (see sidebar, page 32), including the 1978 criminal conspiracy charges against 11 of its members. Such setbacks have triggered increasingly militant responses, which focused, in the conspiracy case, on the federal judiciary. The Scientologists' legal strategy has been to force the recusal of every judge assigned to that case.

Judges lie at the root of the pending criminal charges against the Scientologists. In 1976, D.C. District Court Judge George Hart, Jr., casually proposed a deposition of Hubbard in conjunction with one of many Freedom Of Information Act suits filed by the church. Hart's remark (no deposition ever proved necessary) caused Scientology officials to believe that the government knew something incriminating about Hubbard. As a result the

church intensified its efforts to learn what information the government might possess.

At the same time, the church was issuing "Guardian Programme Orders" (directives to church members) telling them to use "standard overt sources" and "any suitable guise interviews" to monitor the activities of all district court judges presiding in the FOIA suits. In 1977 that directive was extended to all 15 active judges in the D.C. federal district court.

Posing in some instances as students and journalists, Scientologists interviewed the judges, researched their careers and backgrounds, followed them and prepared dossiers. According to Scientology documents, their goal was to determine "tone level" and "buttons on"—indicia of personal vulnerability, in the parlance of Scientology. But the church's operation

church members. This was Boudin's first association with the church, but Hirschkop had handled a search and seizure matter for the church in 1977.

One lawyer who represents Scientologists and has worked with Boudin and Hirschkop offers this ideological defense for their taking the case: "It is a simple case of government overreaching," he says. "The government just can't tolerate an organization with nonconforming beliefs. The Scientologists stand up for their rights—aggressively." Another lawyer who has worked on the case adds a financial motive for their taking such a case: "These people pay their bills—top dollar and on time—which is more than I can say for most of my unpopular clients. This case will finance a lot of *pro bono* work." Hirschkop won't say what he has received in legal fees from the Scientologists, but the church is a pros-

THE SCIENTOLOGISTS' LEGAL STRATEGY HAS BEEN TO FORCE THE RECUSAL OF EVERY JUDGE ASSIGNED TO THE CONSPIRACY CASE.

went far beyond legal surveillance. Members of the church were caught breaking into the offices of the IRS and the Justice Department, stealing and copying documents and eavesdropping. On August 15, 1978, 11 Scientologists were indicted on charges of electronically intercepting oral IRS communications, forging government passes, illegally entering government buildings, recruiting Scientologists to infiltrate the government, stealing records belonging to the IRS, Justice Department and the U.S. Attorney and conspiring to illegally obtain documents in the possession of the United States and to obstruct justice.

The Scientology defendants hired some well-known defense counsel. Mary Sue Hubbard, the wife of church leader L. Ron Hubbard and the highest ranking defendant on trial, retained Leonard Boudin of Rabinowitz, Boudin & Standard and Michael Hertzberg, a solo practitioner, both activist lawyers now practicing law in New York City. Two other defendants, Henning Heldt and Duke Snider, retained Alexandria, Virginia, lawyer Philip Hirschkop, who had been counsel for the "D.C. Nine," antiwar protesters arrested in 1970. In all, 12 lawyers were hired to defend nine defendants (two others had fled to England where they faced extradition proceedings). Boudin and Hirschkop soon assumed the leading roles in the defense.

Boudin and Hirschkop won't discuss why they were selected, but their public identification with radical and unpopular causes was undoubtedly attractive to

perous client. In one instance a member paid the church \$30,000 for the required series of counseling sessions.

Whatever their reasons for taking the case, high-minded principles have not characterized the campaign of the Scientologists' lawyers against the District of Columbia judges. In August 1978 the cases were assigned to Judge Hart, the judge whose comment had originally intensified the intelligence operation and who, like all of his fellow D.C. district court judges, had been investigated. He became the first victim of the Scientologists' recusal strategy.

Boudin filed the first recusal motion in January 1979. His theory was a novel one: by telling Judge Hart that the judge himself was a target of the Scientologists' own possibly illegal activities, he would cause the judge to be biased, or appear to be biased, against them. In his motion, Boudin quoted a Scientology document ordering an "overt" and "covert" data collection operation against Judge Hart, which, in Boudin's words, "possibly [included] the use of methods violative of the judge's privacy and other rights and possibly violative of the criminal laws." Boudin concluded that "the sitting judge is revealed to the jury and the public as a victim of possibly illegal actions," and "the judge has an obvious interest which may be affected by the outcome of the case." Notwithstanding documents to which government and defense counsel had access ordering similar operations on all the District of Columbia district court judges, Boudin declared that he knew of no other such campaigns.

Although government lawyers, led chief prosecutor Raymond Banoun, protested vigorously, arguing that the Scientologists were using their own possibly illegal activities to disqualify the judge, Hart granted the recusal motion and stepped down. Hart denied that he was biased but he agreed that the appearance of impartiality had been tainted by the Scientologists' surveillance operation against him. "I was afraid a jury would be prejudiced against the defendants because their alleged threats against me," H said recently.

The case was assigned next to Judge Louis Oberdorfer, who in light of Judge Hart's recent experience asked for memoranda and oral arguments from both sides at the outset indicating potential grounds for disqualification. Government lawyers pointed out in their memo that Oberdorfer was formerly an assistant attorney general in charge of the tax division of the Justice Department, which had prosecuted a case that ended the tax-exempt status for the founding Church of Scientology in Los Angeles in 1969. Oberdorfer concluded that he had "personal knowledge of disputed evidentiary facts," and on February 5, 1979, he too stepped down.

Shortly afterward the case fell to Richey. A 1971 Nixon appointee whose liberal record—especially in the area of defendants' rights—surprised early critics, Richey initially pleased the Scientologists' defense. In a pamphlet called "Trial of the Scientology Nine," prepared by the Scientologists, Judge Richey was described as having "a very fatherly visage... though crippled with a congenital defect in his hip, one does not notice either limp or his shortness. His glasses glint from the lights of the courtroom add to the picture of a man of deep intelligence and sympathy." And when Richey, too, asked at the outset for a recusal motion if one was planned, Boudin and Hirschkop said they were satisfied with his assignment to the case. That attitude was soon belied by a campaign of harassment that took place and out of the courtroom.

During the summer of 1979, court sessions were held for about three weeks in Los Angeles, where Richey scheduled testimony on the Scientologists' motion to suppress evidence seized by the FBI in 1977 raids of the church's headquarters. The thousands of documents seized in those raids constituted the core of the evidence against the alleged conspirators. The hearings had been moved to Los Angeles to accommodate the Scientologists' witnesses.

Prior to his departure for Los Angeles, Richey received several death threats. The judge has never publicly alleged that the threats came from Scientologists, and said they were unrelated to the case. He flew to California escorted by federal marshals, and elaborate security precautions were implemented at the Los Angeles courthouse in downtown Los Angeles.

During the hearings, defense lawyers repeatedly interrupted the proceedings with objections, motions and arguments.



The four targets of the Scientologists' litigation strategy (left to right): Aubrey Robinson, Charles Richey, Louis Oberdorfer and George Hart, Jr.

mentary, including insults to the judge. For example, Hirschkop and other counsel repeatedly and loudly ordered co-counsel to place adverse evidentiary rulings in a mythical "error bag." On several occasions, Hirschkop accused Richey of lying. At times, Richey left the bench and walked out rather than hold defense counsel in contempt. Only once, at a later hearing, did the judge seem to boil over: speaking to Hirschkop, Richey said, "I want to tell you right here and now, I resent it because I have done nothing to hurt you or your clients. And this record is replete with insults and everything else, when I have not done it to you and don't intend to." Banoun, the prosecutor, says Richey was too accommodating. "He should never have tolerated such behavior," Banoun says.

Hirschkop claims that he was the one who was insulted. "Richey showed contempt for me," Hirschkop says, recalling the time when, he claims, Richey tried to "force-feed" him French fries in court. (Banoun says the judge simply offered all the counsel some French fries he had not finished at lunch.) "I called Banoun a liar," Hirschkop continues, "and the

judge admonished me. But Banoun could insult me with impunity." Banoun denies that this was true. Hirschkop concedes that he frequently became "heated" in his dealings with Judge Richey but says, "I never called him dirty names."

In September 1979, after the Los Angeles hearings, Richey denied the Scientologists' motion to suppress the evidence seized by the FBI. The defendants eventually entered into a stipulation of facts, which amounted to an admission of the principal charges against them, and waived a jury trial. In return, the government agreed to drop 23 of its 24 criminal counts.

Judge Richey explicitly warned the Scientologists that the stipulation was likely to result in their conviction; he subsequently conducted his own review of the evidence, which he said was "overwhelming evidence of guilt," and on October 26, he convicted all nine. On December 6, two days before they were to be sentenced, a recusal motion against Richey was filed.

In this recusal motion, Boudin and Hirschkop again took the extraordinary position that Richey's response to their courtroom tactics and to the threats

showed that Richey was prejudiced against Scientologists. For example, without saying that the death threats were made by Scientologists, Hirschkop said that "upon information and belief, the security in Los Angeles was related to the court's apprehension with regard to the defendants in this case or their church," adding that "it is impossible to imagine a stronger—or more clearly 'extra-judicial'—source of bias than fear for one's life or well-being."

Whatever its merits, the recusal motion was patently defective in at least two technical respects. The judicial recusal statute requires a "timely" motion supported by an affidavit signed by a "party." This motion was filed four months after the events complained of—and after nearly 120 defense motions had been resolved against the Scientologists—and was supported by Hirschkop's affidavit, not one of the defendants. ("I should have filed it much sooner," Hirschkop concedes. "Richey was grossly prejudiced from the start.") In response to the motion, Judge Richey defended his security precautions, noting that "the court may accept reasonable security precautions without risk of tainting

its rulings in the case." He denied the motion and that same day sentenced the nine defendants to prison terms of from six months to four to five years. Eight pulled out checks for \$10,000 the day of their sentencing, and all nine are now free on bail pending appeal.

The denial of their first recusal motion and the sentences, which the Scientologists regarded as unconscionably harsh, led to a redoubling of defense efforts to drive Richey from the case. Six months later, in June 1980, defense counsel were ready with another recusal motion, more damaging and threatening to Judge Richey than the first. The groundwork for that motion had been laid nearly a year before, shortly after the Los Angeles hearings.

That summer, Thomas Dourian, Judge Richey's official court reporter who accompanied him to Los Angeles, was approached by Hirschkop soon after their return to Washington. In a sworn affidavit filed in response to the second recusal motion, Dourian says Hirschkop wanted to know if the security precautions in Los Angeles resulted from Richey's fear of Scientologists. In the affidavit Dourian swore he denied that the judge was afraid

but confirmed that before leaving Washington, the judge and his wife and two sons had received two death threats.

Soon after this encounter, in December 1979, a Scientology lawyer hired Richard Bast, a private detective who had worked for Hirschkop several years before, to investigate Judge Richey's security precautions. Bast's fee: \$321,000 plus expenses. One of Bast's first steps was to infiltrate Richey's inner circle at the courthouse.

In the spring of 1980, a few months after the Scientologists' sentencing, Fred Cain, a Bast employee and retired police officer, approached James Perry, one of two U.S. marshals who had accompanied Richey to Los Angeles. Cain explained to Perry that he had been retained by a European industrialist whose daughter had committed suicide, allegedly as a result of her involvement with the Church of Scientology, and that his assignment was to uncover information that could be damaging to the church. According to Bast, Perry told Cain that he wanted to write a book on the Scientology case, and Bast offered him a \$2,000 advance. Bast says that Perry took the money, and they agreed to

work together.

The evening of May 23, Perry and Cain met Dourian, the court reporter, at his home in Washington. According to Dourian's affidavit, Cain introduced himself as a private investigator for International Investigations, Inc., Bast's detective agency, and told him the same story about the European industrialist.

Dourian says in his affidavit that he found the story improbable but that because his home had been burglarized and he had received threatening phone calls, which he suspected came from Scientologists, he was curious about what Cain and Perry were doing. According to the affidavit, Dourian met with Cain three more times, and each time he was questioned about Judge Richey. At a meeting at his home on May 31, 1980, Dourian says he realized that the conversation was being recorded. Cain had been drinking heavily, Dourian says, and as a result, the court reporter was able to slip a small tape recorder and three cassettes out of Cain's pocket. Dourian's last meeting with Cain was on June 19, when they met with Bast and then dined at a nearby Pizza Hut. Again, Dourian was asked about Richey, and the con-

versation was recorded.

The recordings of Dourian, along with tape-recorded statements made by Perry and statements made by Hirschkop—all collected by Bast—formed the basis for the next recusal motion against Judge Richey. The motion, largely incorporating an earlier recusal motion filed by Hirschkop, was filed on June 20, 1980, as proceedings were beginning against the two defendants recently extradited from Great Britain. For some of the Scientologists' counsel, however, the recusal strategy had gone too far. There was apparently opposition within the ranks to these motions and the way they were prepared. One lawyer, Michael Nussbaum, who represented two of the defendants, didn't sign the papers and withdrew as trial counsel.

The affidavit in support of this motion was filed by Morris Budlong, one of the extradited defendants, after he listened to various tapes and spoke to Hirschkop. Among the prejudicial remarks that Budlong attributed to Judge Richey were: that Richey's death threats emanated from Scientologists; that Jim Jones and Scientologists were "all the same"; that it would be a "feather in his hat" to convict the Scientologists; and that Richey had told another judge that Scientologists were spreading rumors about him as part of a "plot" to discredit him.

A cryptic footnote to the affidavit declined to provide details of the alleged rumors about Richey, citing "respect for the court as an institution." But Hirschkop and other defense counsel knew the details of the plot Richey alluded to. They had gotten them from Bast, who says he had combed the Los Angeles area for information about Judge Richey's personal habits, interviewing motel and restaurant employees and making videotapes and recordings. The information not revealed in the motion was taken by Bast to political columnist Jack Anderson.

The central figure in Bast's story was a self-professed Los Angeles prostitute who worked the Brentwood Holiday Inn, the motel where Richey stayed during the Los Angeles hearings. In a video recording shown to Gary Cohn, a reporter for Anderson, the prostitute recalled "in titillating detail," according to Cohn, an encounter with Judge Richey at the motel and his procurement of her services. According to Cohn, Bast also showed results of lie detector tests conducted by Cain to demonstrate that the prostitute was telling the truth; a tape recording of Perry, the U.S. marshal, claiming Judge Richey said, "Let's go get a woman"; and a tape recording of Dourian, the court reporter, saying Richey "was always picking up girls."

Cohn says that he was initially skeptical of the story because he was aware that Bast was employed by the Scientologists. But he says he had often worked with Bast and trusted him. He says he considered but rejected the possibility that the prostitute was herself a Scientologist, planted to entrap the judge. Bast says only that his discovery of the prostitute was "accidental," that he paid her \$1,200, that she is not a Scientologist and that she is no longer streetwalking.

Cohn wrote the column, which later appeared under Anderson's by-line, focusing on Bast's investigation and Richey's procurement of a prostitute. Cohn adds that he is now "not happy" with the way the column was written. In his affidavit, Dourian, the court reporter, who has heard the tapes he stole from Cain's pocket, denies the remarks attributed to him.

Newspapers that subscribe to Anderson's column received the Judge Richey story around July 11, a week before its release date of July 18. Some of them balked at running it—the New York Daily News

decided not to publish it—and The Washington Post used it only after extensive conversations with Cohn. Cohn says he never reached Richey for comment, and although Post editor Ben Bradlee says he is sure "we did call [Richey] about the column," no comment from Richey appeared in the Post's version, either.

On July 16, Richey issued his opinion. Evidently referring to the upcoming Anderson column, which Richey might have known about from reporters' calls and messages, Richey characterized the recusal motion as "this latest effort in the escalating attack on the court" and found the grounds for the motion to be "insufficient as a matter of law," resting only on "hearsay, rumor and gossip."

But, the judge continued, "defendants and their counsel have engaged in groundless and relentless attacks on this court. Their motive is transparent. It is an attempt to transform the trial . . . into a trial of this judge." Though he labeled the attempts to remove him a "classic example" of abuse of the recusal statutes, he wrote that "the time has come for the proceedings in this case to proceed on the merits with the attention of all directed at the real issues in this case." As a result, Richey withdrew from the case in a state of exhaustion and near-collapse, according to associates.

On July 18, Jack Anderson's column appeared in newspapers throughout the country. Five days later, Judge Richey was hospitalized with exhaustion and pulmonary embolisms. He has since declined all comment on the case, citing the code of judicial conduct.

Judge Richey's ordeal may not be over. Hirschkop vows that his campaign against the judge will continue, and he claims that the prostitute affair is "only the tip of the iceberg." Although Hirschkop declines to disclose details, he says if necessary he will expose additional damaging information uncovered by Bast.

Apart from the delays, the campaign against Judge Richey has had negligible legal impact on the proceedings against the Scientologist defendants. Though an appeal is pending on a conventional search and seizure question, the convictions of the first nine stand. Trials of the remaining two defendants started in late October under Judge Robinson and are still in progress.

The activities of the Scientologists and their counsel in this case seem destined only to satisfy a commandment L. Ron Hubbard once wrote:

"THE DEFENSE of anything is UNTENABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate, or a court of law. NEVER BE INTERESTED IN CHARGES. DO, yourself, much MORE CHARGING, and you will WIN." □

In its July 1980 issue the *American Lawyer* named Judge Charles Richey runner-up to the worst District of Columbia federal district court judge. The lawyer who most vehemently denounced Richey was one of the Scientologists' defense counsel, and this same lawyer also referred our reporter to other lawyers who have represented Church of Scientology defendants. The reporter, who has since left our staff, says he was unaware of Scientologists' efforts to discredit and recuse Judge Richey. Without the lawyer's vehemently derogatory remarks and his referrals to other "sources," our reporter says he would not have named Richey in the survey.

BATTLES ON OTHER FRONTS

The Church of Scientology has been involved in almost constant litigation since its founding nearly 30 years ago. Besides periodic clashes with the government, the church has filed scores of suits against the media to inhibit the news coverage of its activities.

Among the more recent cases involving the church and the media:

► Fourteen libel suits have been filed against Paulette Cooper, New York freelance writer and author of the 1971 book, *The Scandal of Scientology*, and her publisher. Church documents seized in the 1977 Los Angeles raid and made public that year revealed "Operation Freakout," a campaign of harassment directed against Cooper that included death threats, obscene phone calls, phony letters about her sexual behavior and a forged bomb threat against the church that resulted in Cooper's indictment in 1973. The charges against Cooper were dropped in 1975. Cooper has now retaliated with a \$55-million suit against the church.

► A 1977 suit against the *San Diego Union* asked \$10,000 in damages for invasion of privacy from a reporter who had registered for a Scientology course in order to write a story about the church. The church offered to drop the suit if plans to publish the story were dropped, but after the story ran, the church increased its damage claim to \$900,000 and added charges of fraud and deceit against the paper. The case was dismissed on summary judgment.

► In 1976 the church sued the *Clearwater Sun* in Florida for \$1 million and threatened to sue the *St. Petersburg Times* for a series of articles on the church. Scientologists spread rumors linking *Times* officials to the CIA, the FBI and the Communist Party, and harassed reporters. The *Sun* countersued the church for abuse of process, and the *Times* sued for an injunction barring the church's harassment of its reporters. The church subsequently dropped its suit against

the *Sun* and never followed through on its threat to sue the *Times*.

► In March 1979 the church sued two New York writers, Jim Siegelman and Flo Conway, after they criticized Scientology on the "David Susskind Show" while discussing their book *Snapping*. After the Scientologists' suit against them was dismissed, the pair countersued, charging the church with malicious prosecution.

The church has lately found itself on the defensive in a flurry of suits filed against it by disgruntled former church members and recruits. Currently pending against the church are:

► a suit filed October 21 by Lawrence Stifler, a Boston marathon runner, asking \$1.25 million for damages sustained after he was allegedly physically attacked by a Scientology recruiter. Stifler says that, due to the injury, he may never run again;

► a \$16-million suit filed in April by Tonja Burden, a 20-year-old former church member who claims she was deceived and forced to remain in the church, used as slave labor and kidnapped after she escaped;

► a \$21-million suit brought by jazz guitarist Gabor Szabo in February, accusing the church of embezzlement, kidnapping and forcing him to undergo a "life repair course";

► a class action filed last December by former church staff member Lavenda Van Schaick, seeking \$200 million on behalf of church dropouts. Her suit accuses the church of mind control, unlawful electronic surveillance and leaking details of her private life to the media.

Last year, Julie Titchbourne, a former Church of Scientology member, was awarded \$2 million by a Portland, Oregon, jury, which found that the church's premises of a better life were fraudulent. The church has subsequently sued four "deprogrammers" for \$2 million collectively, claiming that they induced Titchbourne to turn against the church.

—R.S.

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HEADLINE: MISCONDUCT BY JUDGE ALLEGED IN SCIENTOLOGY SUIT

BYLINE: By ROBERT WELKOS, Times Staff Writer

BODY:

U.S. District Judge Mariana R. Pfaelzer was accused by an attorney Monday of meeting with representatives of her former law firm and assuring them she would continue to preside over a Church of Scientology case even if the firm accepted an offer to represent the church in the suit.

The accusation was made before Pfaelzer in open court by Century City attorney Joseph Yanny, who once represented Scientology in the lawsuit and is now fighting church efforts to question him. Yanny has been accused by the church of providing ex- Scientologists with confidential information he obtained while representing the church. He has denied the allegation.

Yanny, who was in court to fight a deposition demand, said Pfaelzer met in February with two representatives of her former firm -- Wyman, Bautzer, Kuchel & Silbert -- who were seeking assurances from the judge that she would not relinquish control of the Scientology case.

Such an assurance was important, Yanny contended, because the church had said it would not hire the firm if it meant losing Pfaelzer, who had issued rulings favorable to Scientology.

The lawsuit pits Scientology against church defectors who left to form their own brand of Scientology. The church alleges that former Scientologists conspired to steal and distribute secret church courses. Yanny contended that Pfaelzer violated Canon 3 of the Judicial Code of Conduct, which governs the conduct of federal judges. It states, in part: "A judge shall . . . neither initiate nor consider ex parte . . . communications on the merits or procedures affecting the merits of a pending or impending proceeding."

Pfaelzer, once a partner in the law firm, did not respond from the bench to Yanny's charge. She declined to discuss the matter outside the courtroom.

However, a federal court source told The Times that a Wyman, Bautzer attorney visited the judge's chambers when the firm had just been approached to represent Scientology. Pfaelzer agreed to the meeting without knowing that the lawyer wanted to ask her about the issue of her bowing out, the source said.

Nor did she know, according to the source, that the firm was being considered to represent Scientology.

Pfaelzer reportedly told the lawyer what she later repeated in open court -- that she saw no need to remove herself from the case because she had left

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Wyman, Bautzer 10 years earlier; that her husband, former MGM studio head Frank Rothman, also had left the firm, and that she no longer had a financial interest in it.

When the other side persisted in its objections, however, Pfaelzer did briefly remove herself from the case, but took it again after Wyman, Bautzer stopped representing Scientology in that case.

Sources close to Pfaelzer said her major reason for taking the case again was to avoid dumping the complicated, 26-volume legal proceeding on another judge.

Yanny said he learned of the meeting from one of the participants, Los Angeles attorney Skip Miller.

"I have it from Skip Miller himself that he went along with another partner with Wyman, Bautzer to visit Mariana Pfaelzer," Yanny said. "The church wanted to hire Wyman, Bautzer but wouldn't if it jeopardized her staying on the case.

"It was a very lucrative deal for the firm," he continued. "As a matter of fact, Skip Miller told me it (Scientology) was the biggest client they had."

Miller declined comment when contacted by The Times.

Yanny also recalled a conversation he had with a high-ranking Scientologist named Warren McShane, who, he said, informed him that Wyman, Bautzer was coming into the case.

"I said, 'That's a good firm,' but I said, 'I think you're going to end up losing Judge Pfaelzer.' He said, 'No we won't. I already have assurances we will not.' "

McShane, through an attorney, denied having the conversation.

In court Monday, Yanny confronted Pfaelzer while she sat on the bench.

"Do you admit you had a meeting with the Wyman, Bautzer firm?" Yanny asked. "If you did have that meeting, I'm going to ask you to (remove) yourself."

Instead, she repeatedly told Yanny he should file a motion stating his reasons for wanting her removed and it would be ruled upon.

GRAPHIC: Photo, Judge Mariana R. Pfaelzer Los Angeles Times

SUBJECT:
JUDICIAL MISCONDUCT; CONFLICT OF INTEREST; PFAELZER, MARIANA R; CHURCH OF SCIENTOLOGY; LAW FIRMS; YANNY, JOSEPH; WYMAN BAUTZER KUCHEL & SILBERT

*A Piece of
Blue Sky*

*Scientology,
Dianetics and
L. Ron Hubbard
Exposed*

Jon Atack

A PIECE OF BLUE SKY

*Scientology, Dianetics
and L. Ron Hubbard Exposed*

by Jon Attack

A LYLE STUART BOOK
Published by Carol Publishing Group

and how "you are all trying to kill me!" That was one of his favorite lines—like if dinner didn't taste right—"You are trying to kill me!"

In another affidavit, former Hubbard aide Gerald Armstrong alleged that Hubbard had received millions of dollars from Scientology, despite his public protestations to the contrary.³

My idea of Hubbard as a compassionate philosopher-scientist, a man of great honesty and integrity, was shaken to the core. Even so, for several months I retained my belief in the "Technology," or auditing procedures, of Scientology. I started a newsletter called *Reconnection*, which was read by thousands of Scientologists, but my belief was evaporating. I finally realized that I had taken much of this "Science" on trust.

By the summer of 1984, I had drifted away from the "Tech," but was still caught up in the quest for the truth about Hubbard and his organization. What follows is the fruit of that quest.

war . . . and in fact was in a lifeboat for many days, badly injuring his body and his eyes in the hot Pacific sun."

But Hubbard's accounts are not the only source of information. By the summer of 1984, the fabric of his heroic career had been badly torn, largely through the work of two men: Michael Shannon and Gerald Armstrong.

In July 1975, on a muggy evening in Portland, Oregon, Michael Shannon stood waiting for a bus. A young man approached him, and asked if he wanted to attend a free lecture. Shannon went along, thinking that at least the lecture room would be air-conditioned (it was not). He listened to a short, plausible talk about "Affinity, Reality and Communication," and after a brief sales pitch signed up for the "Communication Course."

Many Scientologists' stories begin this way. Shannon's soon took a different turn. The next day he decided he did not want to do the Communication Course and, after a "brief but rather heated discussion," managed to get his money back. He kept and read the copy of *Dianetics: The Modern Science of Mental Health* which kindled his curiosity, not for Dianetics, but for its originator.

I started buying books. Lots of books. There was a second hand bookstore a few blocks away and they were cheaper, and I discovered they had books by other writers that were about Scientology—I happened on the hard to find *Scandal of Scientology* by Paulette Cooper. Now I was fascinated, and started collecting everything I could get my eager hands on—magazine articles, newspaper clippings, government files, anything.

By 1979, Shannon had spent \$4,000 on his project and had collected "a mountain of material which included some files that no one else had bothered to get copies of—for example, the log books of the Navy ships that Hubbard had served on, and his father's Navy service file." Shannon intended to write an exposé of Hubbard.

After failing to find a publisher, Shannon sent the most significant material to a few concerned individuals and ducked out of sight, fearful of reprisals. Five years later, he was still in hiding and my efforts to contact him failed. The hundred pages Shannon sent out included copies of some of Hubbard's naval and college records, as well as responses to Shannon's many letters inquiring into Hubbard's expeditions and other alleged exploits.

The "Shannon" strong. Armstrong ten years when Hubbard. Much of Hubbard's life has been created in the archive largely from non-reached points.

To complete foundations were prepared for Scientology with the truth.

There is so much. Lafayette Ronald Hubbard, 13, 1911; died 13th.

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Ron claimed Harry Hubbard man until 19 when his son tenant Commander.

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Before he Hubbard was seen his "father's."

The "Shannon documents" also found their way to Gerald Armstrong. Armstrong had been a dedicated Sea Org member for nearly ten years when he began a "biography project" authorized by Hubbard. Much of the immense archive collected by Armstrong consisted of Hubbard's own papers, not the forgeries that Hubbard claimed had been created by government agencies to discredit Scientology. The archive largely confirmed Shannon's material. Armstrong and Shannon reached the same eventual destination from opposed starting points.

To complete the picture has taken a great deal more research, but the foundations were well laid by Armstrong and Shannon. Let us compare Scientology's changing versions of the life of L. Ron Hubbard with the truth.

There is *some* agreement between all concerned on at least one fact: Lafayette Ronald Hubbard was born in Tilden, Nebraska, on March 13, 1911; despite one of his later claims, it was not *Friday* the 13th.¹

His Birth Certificate also shows that Ron was born in Dr. Campbell's Hospital on Oak Street with S.A. Campbell "in attendance."

His mother, Ledora May Hubbard, had returned to the town of her birth to bring her son into the world. His father was Harry Ross Hubbard. Although Ron boasted about his paternal ancestry, the famous Hubbard name, in fact, Harry Hubbard had been an orphan and was born Henry August Wilson. L. Ron had not a drop of Hubbard blood in him.²

Ron claimed that he was born the son of a U.S. Navy Commander. Harry Hubbard had served a four year stint in the Navy as an enlisted man until 1908. He re-enlisted when America entered World War I, when his son was six. Harry Hubbard eventually did become a Lieutenant Commander, but not until 1934.

From this point, the Scientology accounts of Hubbard's life are usually at variance with the facts and often at variance with one another. We are told that when Ron was six months old (or three weeks, in another Hubbard account)³ his family moved to Oklahoma. In fact, the first account is nearly accurate: the Hubbard family spent the Christmas season in Oklahoma, with Ron's maternal grandparents, then moved on to Kalispell, Montana.⁴

Before he was a year old, one Scientology version continues, Hubbard was sent to his maternal grandparents, the Waterburys, because his "father's career kept the family on the move." His grandparents

Commander "Snake" or "Crazy" Thompson (as Hubbard called him) is something of an enigma. Neither Shannon nor Armstrong discovered anything about him. During the Armstrong case in 1984, Scientology Archivist Vaughn Young at least proved "Snake" Thompson's existence. Young had spoken to Thompson's daughter, who attested her father's love of snakes. A library catalogue listing several papers by Thompson on the subjects both of snakes and the human mind, and a postcard from Freud to Thompson were produced. His death certificate showed that he had indeed been a Commander in the U.S. Navy.

For Scientology Archivist Young, an educated man with a master's degree in Philosophy, Thompson's existence, evidence of his nickname, and a postcard were sufficient proof of Hubbard's claims to have been tutored in the Freudian mysteries by this Navy doctor, at the age of twelve. Hubbard's extensive teenage diaries make no mention of either Thompson or Freud. Nor do they contain any material which supports the idea that the juvenile Hubbard was "researching" the human mind.

Scientologists claim Ron became the youngest Eagle Scout in America at the age of twelve, in Washington, DC, and that he was a "close friend of President Coolidge's son, Calvin Jr., whose early death accelerated L. Ron Hubbard's precocious interest in the mind and spirit of Man."

In a diary, written when he was about nineteen, Hubbard recalled his acquisition of the Boy Scout Eagle. A photograph taken at the time shows Hubbard in uniform, all freckles and acne, with the twenty-one necessary merit badges stitched on to a sash. There is no way of knowing whether he was the *youngest* Eagle Scout in America. The Boy Scouts place no value on the age at which a boy becomes an Eagle Scout, and have never kept a record, nor was there any way that Hubbard could find out. But the Boy Scouts do have a record of a Ronald Hubbard who became an Eagle Scout in Washington DC, and was a member of Troop 10. The Eagle was actually awarded on March 28, 1924, some two weeks after L. Ron Hubbard's thirteenth birthday.

In the same diary, Hubbard recollected a meeting with President Coolidge. He was one of some forty boys. The meeting consisted of Hubbard telling his name to the President and a handshake. Rank Pathe took newsreel film of the boys.⁸ Out of this meeting blossomed the supposed close relationship with Coolidge's son, Cal Jr., whose early death was to spur Hubbard's "research." The relationship existed only

in Hubbard's mind
ments to Hubbard's
teenage diaries. In
President's hand, t
across the country

survey by L. Ron Hubbard. Attached to the letter is a crude map entitled "La Plata Mine Assays," and signed with the "LRH" monogram familiar to Scientologists.

As ever, Shannon explored more deeply. He found that a *Bela* Hubbard had made a survey of the Lares district of Puerto Rico in 1923, but the Puerto Rican Department of Natural Resources, the U.S. Geological Survey, and a professor at the University of Puerto Rico, who had prepared the *Geology of Puerto Rico* in 1932-1933, had no knowledge of L. Ron Hubbard.

Armstrong says Hubbard had gone to Puerto Rico to prospect for gold.³ This is supported by a photograph in Hubbard's *Mission into Time*, with the caption, in his hand, "Sluicing with crews on Corozal River '32." It is possible that Ron fled to Puerto Rico to avoid the legal claims brought against him by members of his Caribbean "expedition."⁴

Long before Scientology, Hubbard told stories about an expedition to South America. Frank Gruber, who knew him in 1934, said Hubbard told him about a four-year expedition to the Amazon. After the War, Hubbard told a fellow writer he had been wounded by native arrows on this supposed expedition.⁵ By the time Dianetics came along, this tall story had faded away, to be replaced with others. There is one Scientology biographical sketch which makes a fleeting mention of an "expedition" to *Central America*, made immediately on his departure from college.

Hubbard also claimed to have been a barnstorming pilot (nicknamed "Flash"). Shannon found that for two years Hubbard had a license for gliders, but non for powered aircraft. The barnstorming career seems to have been another student vacation, taken in the summer of 1931 with a friend who was an experienced pilot.

The Scientologists, in a 1989 publication called *Ron the Writer*, claim that having left college Hubbard "went straight into the world of fiction writing and before two months were over had established himself in that field at a pay level which, for those times, was astronomical." Apart from a few contributions to *The University Hatchet Literary Review*, Hubbard's only commercially published article while at the University was for the *Sportsman Pilot*. It was called "Tailwind Willies," and was published in January 1932, and it probably earned little or nothing.

During 1932 and 1933, Hubbard contributed five articles to the *Sportsman Pilot*, including one entitled "Music with Your Naviga-

His Church claims that Hubbard moved to Hollywood in 1935, 1936 or 1937 (depending on which account you read), and while there wrote many major films. Shortly after Gerald Armstrong started working on the Hubbard biographical Archive, he was told that the film *Dive Bomber*, a 1941 Warner Brothers film release, allegedly written by Hubbard, was to be shown to raise money for the legal defense of eleven indicted Scientology staff members. Armstrong started researching the background of the film in February 1980.

I obtained a copy of the short story [Dive Bomber] which Mr. Hubbard had written and had been produced in a pulp magazine in, I believe, 1936. . . . I read through the story and then I went to the Academy of the Motion Pictures Arts and Sciences here in Los Angeles . . . and I obtained a copy . . . of the screen play or, at least, a synopsis or a treatment. And I realized that the two were completely different.

And I also saw that Mr. Hubbard's name was not noted in the credits. And I believe there were a couple of writers noted. . . . I checked their names against other records . . . and confirmed that they couldn't have been him because they were writing on several other movies which he could not possibly have been involved with. So they weren't pseudonyms he was using.

Armstrong was in a quandary: "It would have been embarrassing if someone had said, 'where is your name' and his name wasn't on it. People had paid money. So I thought perhaps I could come up with something else that could be a substitute. . . . I wrote to Mr. Hubbard and let him know what I had found to date . . . he didn't answer me. But he sent down a dispatch."⁶

Hubbard's dispatch, dated February '11, 1980, was sent to the organizer of the showing. It was read into the court record, in the Armstrong case.⁷ Hubbard claimed that Warner Brothers had forgotten to put his name on the movie, and had paid him after distribution. He had not cashed the check until the end of the war, when he used the money for a trip to the Caribbean.

Hubbard's most noteworthy work during his brief time in Hollywood was the co-authorship of a 15 part serial called *The Secret of Treasure Island*. He was, however, a successful pulp writer. Many of his stories were published during the 1930s. Among his pseudonyms were Rene Lafayette, Legionnaire 148, Lieutenant Scott Morgan, Morgan de Wolf, Michael de Wolf, Michael Keith, Kurt von Rachen,

Captain Charles Gordon, Legionnaire 14830, Elron, Bernard Hubbel, Captain B.A. Northrup, Joe Blitz and Winchester Remington Colt.

Only his remarkable writing output enabled Hubbard to make a living in those "penny-a-word" days. He wrote a number of "true stories," two of which concerned his alleged experiences in the French Foreign Legion. His first hard-covered book, *Buckskin Brigades*, was published in 1937.

According to Hubbard, his first philosophical breakthrough came in 1938, with the discovery that the primary law of all existence is "Survive!" The notion that everything that exists is trying to survive became the basis of Dianetics and Scientology.

In 1938, Hubbard detailed his supposed insights in a book called *Excalibur*. Hubbard's hints about *Excalibur* are the source of several Scientology myths. It is whispered that the entirety of Scientology was available in the book, but in such a concentrated form that many people would have gone mad had they read it. Indeed, in an early Scientology promotional piece, it was claimed that fifteen copies of *Excalibur* were distributed, but four of the people who read the book went mad as a result, so the manuscript was withdrawn. The book has never been published.

Gerald Armstrong found three different manuscripts of *Excalibur* among Hubbard's personal effects, one of which was between 300 and 400 pages long.⁸ Later, someone who had seen a version of *Excalibur* said it was so "dangerous" he would "willingly let his four-year-old daughter read it."

Writer A.E. van Vogt, an important figure in the early Dianetic movement, has said that Hubbard claimed his heart had stopped for six minutes during an operation, in 1938. *Excalibur* was the result of the revelation Hubbard had during this near death experience. Armstrong has said it was a dental extraction under nitrous oxide. Hubbard told his literary agent that a "smorgasbord" of knowledge had been laid out before him. He had absorbed it all, and managed to avoid the command to forget, which was the last part of the incident. *Excalibur* is an expansion of Hubbard's argument that "Survive!" is the basic law of existence. Hubbard's friend and fellow writer, Arthur Burks, saw the book when it was offered to publishers in New York in the summer of 1938. He was impressed, but could not manage to instill his enthusiasm into a publisher. Burks later hinted that he put up money for the book to be published, but that Hubbard returned to Port Orchard

in the autumn, taking Burks' n

Hubbard often valued his research. In 1964, he saw a laboratory facility for his work. After his hotel room in events when communists in 1951.¹⁰

In 1938, Hubbard was "summoned" to *Astounding Science* people, not many needed.

Hubbard joined came a major Campbell brought Dianetics, twelve dubbed the Golden alongside that of each of whom though Hubbard inventive imagination moving back to

Hubbard's in 1940 he belonged (AMORC). He by mail) before

In February Explorers' Club 1936). According awarded the Explorer Alaska aboard "Alaskan Radi

count claims that Hubbard seen navigation device the Scientologi

This was one of two specialist examinations performed on Hubbard that day in 1951. The second was orthopedic. In that report, it is noted:

He also gives a history of injuring his right shoulder, just how is not clear, and of developing numerous other things including duodenal ulcer, actinic conjunctivitis, and a highly nervous state. He has applied for retirement from the navy [from the Reserve list] which was eventually turned down. . . . He is a writer by profession and states he has some income from previous writing that helps take care of him. . . . This is a well nourished and muscled white adult who does not appear chronically ill. . . .

He has a history of some injury to the right shoulder and will not elevate the arm above the shoulder level. However, on persuasion, it was determined at this time that the shoulder is freely movable and unrestricted. It is noted that he has had a previous diagnosis of BURSTITIS WITH CALCIFICATION. X-rays will be repeated. It is not believed that this is of significant incapacity. . . . Records show a diagnosis of MULTIPLE ARTHRITIS. However, no clinical evidence of arthritis is found at this time.

Hubbard's Sea Org "Medical Officer," Kima Douglas, testified in court that while she attended him from 1975 to 1980, he suffered from arthritis, bursitis and coronary trouble, which Dianetics was also supposed to alleviate.⁵ Hubbard wore glasses throughout his adult life, but only in private.

During the Armstrong case, a Hubbard letter to the Veterans Administration, dated April 2, 1958, was produced. Gerald Armstrong had this to say of it:

In my mind there was a conflict between the fact that here he is asking to have his V.A. [Veterans Administration] checks sent to a particular address in 1958, and in all the publications about Mr. Hubbard he had claimed that he had been given a perfect score, perfect mental and physical score by 1950, and by 1947 had completely cured himself, and here he is still drawing a V.A. check for this disability. . . . It seems like there is at least a contradiction and possibly an unethical practice on his part.

During the case, a document was read into the record which clearly shows Hubbard's state of mind during the period when he was supposedly developing his science of mind. It is part of a collection of documents which Armstrong dubbed "The Affirmations," because

organization called the Order of Templars Orientalis [sic, actually "Ordo Templi Orientis"] over the world which had savage and bestial rites. Dr. Parsons was head of the American branch located at 100 Orange Grove Avenue [actually 1003 South Orange Grove Avenue], Pasadena, California. This was a huge old house which had paying guests who were the U.S.A. nuclear physicists working at Cal. Tech. Certain agencies objected to nuclear physicists being housed under the same roof.

L. Ron Hubbard was still an officer of the U.S. Navy because [sic] he was well known as a writer and a philosopher and had friends amongst the physicists, he was sent in to handle the situation. He went to live at the house and investigated the black magic rites and the general situation and found them very bad.

Parsons wrote to Crowley in England about Hubbard. Crowley "the Beast 666" evidently detected an enemy and warned Parsons. This was all proven by the correspondence unearthed by the Sunday Times. Hubbard's mission was successful far beyond anyone's expectations. The house was torn down. Hubbard rescued a girl they were using. The black magic group was dispersed and destroyed and has never recovered. The physicists included many of the sixty-four top U.S. scientists who were later declared insecure and dismissed from government service with so much publicity.

During the Scientologists' case against Gerald Armstrong in 1984, the original of this peculiar statement was produced. It is in Hubbard's handwriting. The statement is mistaken on several points. Karl Germer, not Parsons, was in charge of Crowley's organization in America. Parsons, known as "Fratel Belarion" or "Fratel 210," was head of the single "Church of Thelema," or "Agape Lodge," in Pasadena. Hubbard's opening statement, the claim to have broken up black magic in America, is of course ridiculous. Hubbard did, however, contribute significantly to Jack Parsons' later financial difficulties. There is no evidence to support the claim that Hubbard was working for "Intelligence." Parsons' FBI file shows that he was routinely investigated from 1943 onwards, because of his peculiar lifestyle. There is no mention of Hubbard in the file, and despite investigations, Parsons retained his high security classification until shortly before his death in 1952.

However, the Scientology statement does admit Hubbard's involvement with Parsons. In a "Bulletin" written for Scientologists in 1957, Hubbard said this of the man whose black magic group he had "dispersed":

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and all that. She assisted Jack in the O.T.O. and seemed to possess the same devotion to it and to Crowley as did Jack."

Rogers' impression of Hubbard was favorable:

I liked Ron from the first. He was of medium build, red headed, wore horn-rimmed glasses, and had a tremendously engaging personality. For several weeks he dominated the scene with his wit and inexhaustible fund of anecdotes. About the only thing he seemed to take seriously and be proud of was his membership in the Explorers Club (of which he was the youngest member), which he claimed he had received after leading an expedition into the wilds of South America, or some such godforsaken place. Ron showed us scars on his body which he claimed were made by aboriginal arrows on this expedition. . . . Unfortunately, Ron's reputation of spinning tall tales (both off and on the printed page) made for a certain degree of skepticism in the minds of his audience. At any rate, he told one hell of a good story.

Alva Rogers had no involvement with Parson's attempt to conjure a "Moonchild." To Aleister Crowley the personification of female-kind was "Babalon," his capricious respelling of "Babylon." Chapter seventeen of St. John's Revelation tells of "Babylon the Great," the "Scarlet Woman":

With whom the kings of the earth have committed fornication, and the inhabitants of the earth have been made drunk with the wine of her fornication. . . . I saw a woman sit upon a scarlet coloured beast, full of names of blasphemy, having seven heads and ten horns. And the woman was arrayed in purple and scarlet colour, and decked with gold and precious stones and pearls, having a golden cup in her hand full of abominations and filthiness of her fornication: And upon her forehead was a name written, Mystery, Babylon the Great, the Mother of Harlots and Abominations of the Earth. And I saw the woman drunken with the blood of the saints, and with the blood of the martyrs of Jesus.

Crowley's black magic centered upon Babalon, and he identified himself with the "Beast" upon which Babalon is to ride in her conquest of the Earth. In his novel, *The Moonchild*, Crowley described the creation of an "homunculus," elsewhere described by him as "a living being in form resembling man, and possessing those qualities of man which distinguish him from beasts, namely intellect and power of speech, but neither begotten and born in the manner of human generation, nor inhabited by a human soul." Crowley said this was "the

great idea of magicians of all times: to obtain a Messiah by some adaptation of the sexual process." Crowley's "Messiah" was the Antichrist who would overthrow Christianity: Babalon the Great.

The secret rituals of Crowley's "Ordo Templi Orientis" were made public by Francis King in 1973.⁴ They laid out the strict sequence of mystic rites and initiations that the adept is to follow as a series of "degrees." Jack Parsons was intent upon conjuring Babalon as a "Moonchild." He wanted to incarnate the "Eternal Whore" in human form using Crowley's Rituals. The ceremonies, which Parsons recorded, are known as "The Babalon Working." Parsons' transcription was later typed and given very limited distribution as "The Book of Babalon."

In January 1946, Parsons performed the "VIIIth degree" of the OTO, with Hubbard's assistance. The ritual is called "Concerning the Secret Marriages of Gods with Men," or the "Magic Masturbation." After a lengthy preamble to the ritual we find the following, under the title "Of Great Marriages":

On every occasion before sleep let the Adept figure his goddess before him, wooing her ardently in imagination and exalting himself with all intensity toward her.

Therefore, with or without an assistant, let him purge himself freely and fully, at the end of restraint trained and ordered unto exhaustion, concentrating ever ardently upon the Body of the Great Goddess, and let the Offering be preserved in Her consecrated temple or in a talisman especially prepared for this practice. And let no desire for any other enter the heart. Then shall it be in the end that the Great Goddess will descend and clothe Her beauty in veils of flesh, surrendering her chaste fortress of Olympus to that assault of thee, O Titan, Son of Earth!

It does not take much imagination to understand what Hubbard was watching Parsons do. The ritual took place over twelve consecutive nights in January 1946. To the strains of a Prokofiev violin concerto, Parsons made a series of eleven invocations, including the "Conjunction of Air," the "Consecration of Air Dagger" and the "Invocation of Wand With Material Basis on Talisman." John Symonds, in his book *The Great Beast*, explains that "wand" is a Crowleyism for "penis."

Parsons wrote to Crowley "nothing seems to have happened. One night, there was a power failure, but nothing more eventful, until January 14, when a candle was knocked from Hubbard's hand. Par-

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sons said, "He [Hubbard] called me, and we observed a brownish yellow light about seven feet high in the kitchen. I banished with a magical sword, and it disappeared. His [Hubbard's] right arm was paralyzed [sic] for the rest of the night."

The next night, Hubbard saw a vision of one of Parsons' enemies. Parsons described this in a letter to Crowley, adding: "He attacked this figure and pinned it to the door with four throwing knives, with which he is expert." In the same letter, Parsons spoke of Hubbard's guardian angel again: "Ron appears to have some sort of highly developed astral vision. He described his angel as a beautiful winged woman with red hair, whom he calls the Empress, and who has guided him through his life and saved him many times. . . . Recently, he says, because of some danger, she has called the Archangel Michael to guard us. . . . Last night after invoking, I called him in, and he described Isis nude on the left, and a faint figure of past, partly mistaken operations on the right, and a rose wood box with a string of green beads, a string of pearls with a black cross suspended, and a rose."

Parsons performed rituals which led up to "an operation of symbolic birth." Then he settled down to wait. For four days he experienced "tension and unease. . . . Then, on January 18, at sunset, while the Scribe [Hubbard] and I were on the Mojave desert, the feeling of tension suddenly snapped. . . . I returned home, and found a young woman answering the requirements waiting for me."

The woman was Marjorie Cameron. Parsons wrote to Crowley: "I seem to have my elemental. She turned up one night after the conclusion of the operation and has been with me since. . . . She has red hair and slant green eyes as specified."

Parsons continued to invoke Babalon. On February 28, he went out to the Mojave on his own, and "was commanded to write" a "communication" from Babalon, supposedly the fourth chapter of the *Book of the Law*. This rambling "communication," similar in style to Crowley's "inspired" writings, describes Babalon, and the tribute she seeks to exact. Further, it describes the ritual which Parsons is to perform. Babalon is to provide a daughter, and Parsons is charged with a significant task:

In My Name shall she have all power, and all men and excellent things, and kings and captains and the secret ones at her command. . . . My voice in thee shall judge nations. . . . All is in thy hands, all power, all hope, all future. . . . Thy tears, thy sweat, thy blood, thy semen, thy love, thy faith shall provide. Ah, I shall drain thee like the cup that is of

me, BABALON. . . . Let me behold thee naked and lusting after me, calling upon my name. . . . Let me receive all thy manhood within my Cup, climax upon climax, joy upon joy.

During the first two days of March 1946, Parsons prepared an altar and equipment according to the instructions he had just received. Hubbard has been away for a week, but: "On March 2 he returned, and described a vision he had that evening of a savage and beautiful women riding naked on a great cat like beast." Hubbard and Parsons set to work immediately. As Parsons described it, "He was robed in white, carrying the lamp, and I in black, hooded, with the cup and dagger. At his suggestion we played Rachmaninoff's 'Isle of the Dead' as background music, and set an automatic recorder to transcribe any audible occurrences. At approximately eight PM he began to dictate, I transcribing directly as I received."

Hubbard launched into a stream of suitably mystical outpourings, for example: "She is flame of life, power of darkness, she destroys with a glance, she may take thy soul. She feeds upon the death of men. Beautiful—Horrible."

Hubbard continued, instructing Parsons:

Display thyself to our lady; dedicate thy organs to Her, dedicate thy heart to Her, dedicate thy mind to her, dedicate thy soul to Her, for She shall absorb thee, and thou shalt become living flame before She incarnates. For it shall be through you alone, and no one else can help in this endeavour.

. . . Retire from human contact until noon tomorrow. Clear all profane documents on the morrow, before receiving further instructions. Consult no book but thine own mind. Thou art a god. Behave at this altar as one god before another . . .

Thou art the guardian and thou art the guide, thou art the worker and the mechanic. So conduct thyself. Discuss nothing of this matter until thou art certain that thine understanding embraces it all.

Using a mixture of his earlier desert inspiration, Hubbard's instructions, and a large helping of Crowley, Parsons began the rituals to incarnate the daughter of Babalon.

The next day, Hubbard once more acted as Babalon's medium, and gave instructions for the second and third rituals. During the second ritual, Parsons was to gaze into an empty black box for an hour when a "sacred design" would become apparent which he was to reproduce in

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wood. Then, robed in scarlet ("symbolic of birth") with a black sash, Parsons was to invoke Babalon yet again.

The third ritual was to start four hours before dawn. Parsons was to wear black, and to "lay out a white sheet." Hubbard's instructions continued:

Place upon it blood of birth, since she is born of thy flesh, and by thy mortal power upon earth. . . . Envision thyself as a cloaked radiance desirable to the Goddess, beloved. Envision her approaching thee. Embrace her, cover her with kisses. Think upon the lewd lascivious things thou couldst do. All is good to Babalon. ALL. . . . Thou as a man and as a god hast strewn about the earth and in the heavens many loves, these recall, concentrate, consecrate each woman thou hast raped. Remember her, think upon her, move her into BABALON, bring her into BABALON, each, one by one until the flame of lust is high.

Preserve the material basis. . . . The lust is hers, the passion yours. Consider thou the Beast raping.

A commentator has noted that the "material basis" was probably a mixture of semen and menstrual blood. On March 6, Parsons sent an excited letter to Crowley:

I am under the command of extreme secrecy. I have had the most important—devastating experience of my life between February 2 and March 4. I believe it was the result of the 9th [degree] working with the girl who answered my elemental summons.

I have been in direct touch with One who is most Holy and Beautiful mentioned in The Book of the Law. I cannot write the name at present.

First instructions were received direct through Ron—the seer. I have followed them to the letter. There was a desire for incarnation. I was the agency chosen to assist the birth which is now accomplished. I do not yet know the vehicle, but it will come to me, bringing a secret sign I know. Forgetfulness was the price. I am to act as instructor guardian guide for nine months; then it will be loosed on the world. That is all I can say now. There must be extreme secrecy. I cannot tell you the depth of reality, the poignancy, terror and beauty I have known. Now I am back in the world weak with reaction. . . . It is not a question of keeping anything from you, it is a question of not dwelling or even thinking unduly on the matter until the time is right. Premature discussion or revelation would cause an abortion.

Parsons obviously thought Babalon was gestating in Marjorie Cameron's womb; it all smacks of horror tales like *The Omen* and *Rosemary's Baby*. Crowley thought so too, and said as much to Parsons: "You have me completely puzzled by your remarks about the elemental—the danger of discussing or copying anything. I thought I had the most morbid imagination, as good as any man's, but it seems I have not. I cannot form the slightest idea who you can possibly mean." A curious admission from the author of *The Moonchild*, and the "IXth degree magic," of which "Of the Homunculus" is a major part.

Crowley wrote to his deputy in New York: "Apparently he [Parsons] or Ron or somebody is producing a Moonchild. I get fairly frantic when I contemplate the idiocy of these louts."

Crowley's "IXth degree" ritual, which was performed by Parsons, Hubbard and Cameron, says this of the Homunculus: "Now then thou hast a being of perfect human form, with all powers and privileges of humanity, but with the essence of a particular chosen force, and with all the knowledge and might of its sphere; and this being is thy creation and dependent; to it thou art Sole God and Lord, and it must serve thee."⁶

None of the accounts of "The Babalon Working," performed by Parsons and Hubbard, fully explain the phrase "the essence of a particular chosen force." Crowley viewed the gods not as distinct individuals, but as representations of particular energies, which could be tapped. In his own words: "Gods are but names for the forces of Nature themselves." The "IXth degree" magic is concerned with embodying such an energy or force.

In May, OTO member Louis T. Culling wrote to Crowley's deputy, Karl Germer, suggesting that Parsons should be "salvaged from the undue influence of another." He spoke of a partnership agreement signed by Parsons, Hubbard and Sara Northrup "whereby all money earned by the three, for life, is equally divided."

There was disquiet in the Ordo Templi Orientis. In a cable to his U.S. deputy, dated May 22, Crowley said, "Suspect Ron playing confidence trick, Jack evidently weak fool obvious victim prowling swindlers." On the 31st, he added, "It seems to me on the information of our Brethren in California that (if we may assume them to be accurate) Frater 210 [Parsons] has committed . . . errors. He has got a miraculous illumination which rhymes with nothing, and he has apparently lost all of his personal independence. From our brother's account

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pertaining thereto. And I was stripped of my fortune (the sum of about \$50,000) [sic] and my house, and all I Possessed.

Parsons was fatally injured by the blast of an explosion in his laboratory in 1952. Parsons has the distinction of being the only twentieth-century magician to have had a crater on the moon named after him (though for his contributions to rocketry). Appropriately, it is on the so-called dark side.

Hubbard continued the practice of Magick after leaving Parsons. During the Armstrong case, portions of Hubbard's "Affirmations" were read into the record, much to the protest of Mary Sue Hubbard's attorney, who said "this particular document is . . . far and away the most private and personal document probably that I have ever read by anybody." Armstrong's lawyer, Michael Flynn, tended to agree: "Most Scientologists . . . if they read these documents would leave the organization five minutes after they read them."

The "Affirmations" are voluminous. The introduction alone runs to thirty pages. They are in Ron Hubbard's own hand. Only a tiny portion was read into the court record, and the originals were held under court seal. In the "Affirmations" Hubbard hypnotized himself to believe that all of humanity and all discarnate beings were bound to him in slavery. Mary Sue Hubbard's attorney claimed these statements were part of Hubbard's "research."

Also under court seal was a document with the tantalizing title "The Blood Ritual." The title was Hubbard's own. This document was apparently so sensitive that no part of it was read into the record. The Scientology lawyer asserted that the deity invoked in "The Blood Ritual" is an Egyptian god of Love.

Parsons had mentioned Hubbard's *guardian angel*, "The Empress." Nibs Hubbard says his father also called his *guardian angel* Hathor, or Hathoor. Hathor is an Egyptian goddess, the daughter and mother of the great sun god Amon-Ra, the principal Egyptian deity. She was depicted as a winged and spotted cow feeding humanity; a goddess of Love and Beauty. But she had a second aspect, not always mentioned in texts on Egyptian mythology, that of the "avenging lioness," Sekmet, a destructive force. One authority has called her "the destroyer of man." This is the "God of Love" to whom "The Blood Ritual" ceremony was dedicated. Since doing my research I have seen a copy of "The Blood Ritual," and it is indeed addressed to Hathor. Nuit, Re, Mammon and Osiris are also invoked. The ceremo-

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In fact, both the Church of American Science and a Church of Scientology had been incorporated without fanfare by Hubbard in December 1953, in Camden, New Jersey, along with the "Church of Spiritual Engineering." The Church of American Science was represented as a Christian Church.²

Evidence of Hubbard's interest in moving Scientology into a religious position was given in the Armstrong case. On April 10, 1953, Hubbard wrote from England to Helen O'Brien, who had just taken over the management of Scientology in the U.S., telling her that it was time to move from a medical to a religious image. His objectives were to eliminate all other psychotherapies, to salvage his ailing organization, and, Hubbard was quite candid, to make a great deal of money. Being a religion rather than a psychotherapy was a purely commercial matter, Hubbard said. He enthused about the thousands that could be milked out of preclears attracted by this new promotional approach.³

As usual, Hubbard was keeping all of the options open. In his explanatory letter to the membership about the new "Church," he also introduced the "Freudian Foundation of America." A variety of degrees were offered to students, including "Bachelor of Scientology," "Doctor of Scientology," "Freudian Psycho-analyst," and "Doctor of Divinity" to be issued by the "University of Sequoia," an American diploma mill (which was closed down by the California Department of Education in 1958). Hubbard had already received an "honorary doctorate" in philosophy from Sequoia.⁴

In New Zealand, the Auckland Scientology group also became a Church in February 1954. Gradually other centers followed suit, and "Churches of Scientology" came into being all over the world. These "Churches" were franchises paying a tithe to the "mother church." Scientology had become the McDonald's hamburger chain of religion, increasingly absorbing the mass-production and marketing aspects of North American commerce.

In 1954, Don Purcell, weary of the battle with L. Ron Hubbard, and unable to make his Dianetic organization self-sustaining, withdrew to join Art Coulter's "Synergetics," a derivative of Dianetics. Purcell dissolved the Wichita Dianetic Foundation, and gave its assets to Hubbard. These included the copyrights to several Hubbard books. The use of the word "Dianetics" and even the name "L. Ron Hubbard" had been in dispute. Hubbard had complete control of his

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Athena. The *Enchanter* had already been renamed the *Diana*, but was included in the ceremony nonetheless.

All was not well on the Scientology home front, in England. An application to local authorities for permission to expand Saint Hill castle had been denied. The Scientologists were ordered to pay the legal costs of three of the newspapers they were suing before they could proceed. The son of Scientology spokesman David Gaiman was refused a place at an East Grinstead school until Scientology had cleared its name. Foreign Scientologists posed as tourists to attend a Congress in Croydon, to evade enforcement of the Aliens Act. Gaiman said, "They disguised themselves as humans." It was fair comment.²² The English High Court refused to rule against the Home Office's use of the Aliens Act. The Scientologists fought back with more than forty court writs issued for slander or libel on a single day.

The Rhodesian government, which had refused to renew Hubbard's visa in 1966, introduced a ban on the importation of material which promoted, or even related to, the practice of Scientology. The states of Southern and Western Australia joined Victoria in banning Scientology totally. The Sea Org seemed to have put to sea just in time.

The Western Australian "Scientology Prohibition Act" was far more succinct than that of Victoria:

1. A person shall not practice Scientology.
2. A person shall not, directly or indirectly, demand or receive any fee, reward or benefit of any kind from any person for, or on account of, or in relation to the practice of Scientology.

Penalty: for a first offence two hundred dollars and, for a subsequent offence, five hundred dollars or imprisonment for one year or both.

The Scientologists' response to the bans was in character:

The year of human rights draws to its close. The current English Government celebrated it by barring our foreign students, forbidding a religious leader to enter England, and beginning a steady campaign intended to wipe out every Church and Churchman in England. The hidden men behind the Government's policies are only using Scientology to see if the public will stand for the destruction of all churches and churchmen in England. . . . Callaghan, Crossman and Robinson follow the orders of a hidden foreign group that recently set itself up in England, which has as its purpose the seizure of any being whom they dislike or won't agree [sic], and permanently disabling or killing him.

was that he was terrified of doctors and that's why everyone had to be put through such hell."

While on the mend, Hubbard introduced his latest innovation in Ethics Technology: the "Rehabilitation Project Force." This became Scientology's equivalent to imprisonment, with more than a tinge of the Chinese Ideological Re-education Center. In theory the RPF deals with Sea Org members who consistently fail to make good. They are put on "MEST work," which is to say physical labor, and spend several hours each day confessing their overtacts (transgressions), and revealing their Evil Purposes.

Life in the Sea Org was already fairly gruelling, but the Rehabilitation Project Force went several steps further. Gerry Armstrong, who spent over two years on the RPF, has given this description:

It was essentially a prison to which crew who were considered non-producers, security risks, or just wanted to leave the Sea Org, were assigned. Hubbard's RPF policies established the conditions. RPF members were segregated and not allowed to communicate to anyone else. They had their own spaces and were not allowed in normal crew areas of the ship. They ate after normal crew had eaten, and only whatever was left over from the crew meal. Their berthing was the worst on board, in a roach-infested, filthy and unventilated cargo hold. They wore black boilersuits, even in the hottest weather. They were required to run everywhere. Discipline was harsh and bizarre, with running laps of the ship assigned for the slightest infraction like failing to address a senior with "Sir." Work was hard and the schedule rigid with seven hours sleep time from lights out to lights on, short meal breaks, no liberties and no free time . . .

When one young woman ordered into the RPF took the assignment too lightly, Hubbard created the RPF's RPF and assigned her to it, an even more degrading experience, cut off even from the RPF, kept under guard, forced to clean the ship's bilges, and allowed even less sleep.¹²

Others verify Armstrong's account. The RPF rapidly swelled to include anyone who had incurred Hubbard's disfavor. Soon about 150 people, almost a third of the *Apollo's* complement, were being rehabilitated. This careful imitation of techniques long-used by the military to obtain unquestioning obedience and immediate compliance to orders, or more simply to break men's spirits, was all part of a ritual of humiliation for the Sea Org member.

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the senior management body: the Commodore's Messenger Organization International, or CMO Int. But as the Commodore's Messenger Organization was quite obviously connected to the Commodore, they had to find a new title. So the Watchdog Committee (WDC) came into being, in April 1979. It consisted solely of the senior executives of CMO Int.

The function of WDC was to "put senior management back on post." They did this by absorbing all top management posts. The members of the Watchdog Committee remained anonymous, and many Scientologists thought Hubbard was in fact the mysterious Chairman WDC.

In July 1979, a member of CMO issued a directive seeking to explain the rather contradictory notion that although CMO was in no way involved in management, it could give orders to any of Scientology's International Management bodies. Early in 1978, Hubbard had reinforced their position by approving an order which made them answerable only to him, and urging the compliance of all other Sea Org units with CMO orders. The rule was basically obey first, ask questions later, if at all.⁴

Hubbard's orders grew progressively more wild. Gerald Armstrong was in the CMO at Gilman: "In the summer of 1979, on the orders of Hubbard . . . I became involved in a project to build Mr. Hubbard a completely new house near Hemet. I was personally involved with the architectural plans for this property and saw an order from Mr. Hubbard to have built around the property a high block wall with openings for gun placements."

Amongst Hubbard's requirements were that the house be "in a non-black area, dust-free, defensible, with no surrounding higher areas, and built on bedrock."

To maintain security, Hubbard even stopped seeing his wife, shortly before she changed her plea to an admission of guilt. They last saw each other at Gilman in August 1979. Despite her years of faithful service, and her willingness to take the rap for him, Hubbard cast her off. Nonetheless, she retained control of the still powerful Guardian's Office, and was able to remove the Deputy Commanding Officer of the CMO for meddling in GO affairs.⁵

In September 1979, nine of the indicted GO executives and staff, led by Mary Sue Hubbard, signed a stipulation admitting their involvement in the break ins, burglaries, thefts and buggings. By their admissions they stopped further investigation into their numerous other

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order, or anything even resembling an order from Hubbard had to go, and accordingly tens of thousands of documents were shredded. The Messenger logs, which were the painstaking record of *every* verbal order given by the Commodore to his Messengers, were buried for safe keeping.⁷ These logs have never come under public scrutiny.

Gerald Armstrong was the head of the Household Unit, which was preparing a house on the Gilman property for Hubbard's occupation. One of Armstrong's juniors was perplexed when she found a cache of boxes containing faded Hubbard letters and the like. She asked Armstrong if this material should be shredded. Armstrong was amazed and delighted to find twenty boxes packed with old letters, diaries, photographs, even some of Hubbard's baby clothes.⁸

At last an accurate and fully documented account of the remarkable exploits of the Founder would be possible. The fabrications of conspiring government agencies could be disproved once and for all. Armstrong sent a request to Hubbard asking permission to establish an archive with this material at its core. Hubbard granted the request. The process eventually discredited Hubbard's fictional autobiography for good.

Shortly thereafter in February or March 1980, Hubbard hightailed it out of his apartment in Hemet, with the two Messengers who were "on Watch," Pat and Annie Broeker.⁹ The Broekers had been in Scientology for a long time. Annie had been a Messenger on the ship. Hubbard disappeared without trace. He probably left because of the strong possibility that he would be subpoenaed by the Paulette Cooper grand jury in New York.

Armstrong was busy with a series of projects, including the Nobel Peace Prize Project which was intended to win the Prize for Hubbard's development of the Purification Rundown. Increasingly stringent measures were taken to conceal Hubbard's control of Scientology. Armstrong was also assigned to "Mission Corporate Category Sort-Out" (MCCS). Members of the Guardian's Office Legal Bureau and of the L. Ron Hubbard Personal Office met with Hubbard's attorney to discuss strategy. They were trying to cover the tracks of the Religious Research Foundation, and other dubious or downright illegal schemes, which had poured Church of Scientology money into Hubbard's private accounts.¹⁰

MCCS started an eddy which would become a tidal wave, sweeping away the majority of veteran Scientologists. The entire corporate

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structure was to be changed in a desperate attempt to avoid the consequences of Guardian's Office activities, and the ensuing concerted legal action against the corporate entity of which it was part, the Church of Scientology of California, the corporate heads of which were GO executives

Hubbard dabbled with a follow-up to the Purification Rundown, called the Survival Rundown, but most of the work was done by his Technical Compilations Unit at Gilman Hot Springs. After lengthy surveys, the new Rundown was released with illustrations of an American Indian paddling a canoe, or loosing an arrow at a buffalo. Unfortunate choices as examples of survival. The "Purif" had been advertised with a waterfall, unintentionally suggesting an ad for menthol cigarettes.

During the summer, Armstrong's growing collection of documents relating to the life and times of L. Ron Hubbard was appraised by a Scientologist collector, who valued it at around \$5 million. MCCC were toying with the idea of creating a Trust to legitimize some of the immense payments being made to Hubbard."

On July 16, 1980, the GO, which had precious little to celebrate, was able to rejoice with the news that the British government's use of the Aliens Act against Scientology was finally over. After twelve years, foreign Scientologists could once more enter Britain legally. However, the restrictions on Hubbard's re-entry were not lifted.

Hubbard was beginning to let slip clues to the terrible truth of the OT levels. He issued a Bulletin called "The Nature of a Being" in which he quite publicly, yet mystifyingly, declared that "a human being . . . is not a single unit being."¹² Plans were underway to film *Revolt in the Stars*, volcanic eruptions and all. Hubbard itched to make OT 3 public.

Hubbard continued railing against psychiatry: "Almost every modern horror crime was committed by a known criminal who had been in and out of the hands of psychiatrists and psychologists often many times. . . . Spawned by an insanely militaristic government, psychiatry and psychology find avid support from oppressive and domineering governments. . . . The credence and power of psychiatry and psychology are waning. It hit its zenith about 1960: then it seemed their word was law and that they could harm, injure, and kill patients without restraint." Hubbard assured his readers that his own work had been a major reason for a purported decline of psychiatry and psychology. He

added, "At one time they were on their way to turning every baby into a future robot for the manipulation of the state and every society into a madhouse of crime and immorality."¹³

In October 1980, the Chairman WDC caused much rejoicing by making the enormous price cuts mentioned earlier. Scientology was still not cheap, but it was a great deal cheaper, and the monthly price rises had stopped. It looked as if the Scientology world was finally going to right itself. Many thought that "LRH" was "back on the lines." In fact, quite the opposite was true.

Omar Garrison, who had already written two books favorable to Scientology, was now contracted to write Hubbard's biography, using the enormous collection of material discovered and gathered by Gerald Armstrong. The contract negotiations were elaborate, with Mary Sue Hubbard representing both her husband to the publisher, and the publisher to Garrison. The publisher was to be Scientology Publications, Denmark, a subsidiary of the Church of Scientology, though its executives knew nothing of the negotiations made by Mary Sue on their behalf.

Garrison was firm in his approach, as he later said: "I wasn't prepared to write a eulogy for Mr. Hubbard . . . it would be like trying to write a biography of Christ for a very fanatical Christian organization . . . they agreed that I can [sic] write it without any restriction."¹⁴

The day after the contract was signed, on October 31, 1980, the Internal Revenue Service placed a lien on the Cedars of Lebanon complex, the huge old hospital which by then housed Scientology's Los Angeles operation. Within a fortnight, the Scientologists' appeal against the IRS tax assessment for the years 1970-1972 went to court.

Hubbard's written Scientology output for 1980 was small. A few already lengthy Confessional lists were extended on his instruction, and there were various pronouncements about drugs. He kept busy with other matters. The first was an attempt at writing the longest science fiction novel of all time. He later boasted to A.E. van Vogt that it had taken him only six weeks to write.¹⁵ It is rumored that Hubbard did not even read the proofs, leaving this to his close confidant, Messenger Pat Broeker. But how could a Messenger alter the words of the great OT? Perhaps *Battlefield Earth* is the longest science fiction novel ever written. Certainly, some reviewers found it among the most boring, and possibly the most turgid. One headed his review, succinctly, "Brain Death." In his history of science fiction, *Trillion Year Spree*, Brian Aldiss gave a good synopsis of the novel:

CHAPTER ONE

Scientology at Law

The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway . . . will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.—RON HUBBARD, *The Scientologist*, March 1955

The litigious nature of the Church of Scientology is well-known. It has waged a twenty-year battle against the Internal Revenue Service in the United States. The IRS insists that the profits of Scientology have accrued to the benefit of a private individual, namely L. Ron Hubbard. There was a ten-year battle against the Food and Drug Administration. The Courts upheld the FDA's assertion that the E-meter was improperly labeled. But the Church did manage to overturn a ruling that material seized from them be destroyed. So the Church claims victory. In the 1970s in France, Hubbard was sentenced in absentia to a prison term for fraud.

In the 1970s, the Church fought to prevent the sale of books critical of Scientology. They failed in this attempt, but caused authors George Malko, Paulette Cooper, Cyril Vosper and Robert Kaufman considerable difficulty (not only from the law suits: Roy Wallis, in his *Salvation and Protest*, described the harassment he received after writing about Scientology). In 1982, Paulette Cooper, author of *The Scandal of Scientology* testified that the Church had brought *eighteen* suits against her. More recently Russell Miller has defended against at-

tempts to prevent distribution of his *Bare-Faced Messiah* in England, Canada, Australia and the United States.

In 1983, the Legal office of the Church admitted that it did not know how many suits were outstanding in England alone. So many writs had been issued for libel it had lost track. In 1968, *thirty-eight* libel suits were dropped by the Church in England. Cases which continued were uniformly lost by the Church.

Boston attorney Michael Flynn won fourteen of the sixteen complaints brought against him by the Church, the remaining two being withdrawn. The Church has from time to time filed suits against the FBI, the IRS, the Justice Department, Interpol and even against Henry Kissinger (for \$800 million).

Scientology has filed hundreds of cases over the years. Most have been withdrawn before trial, but in Britain suits against a former Police Commissioner and against Member of Parliament Geoffrey Johnson-Smith were both lost by the Church. In return, there have been hundreds of suits filed against Scientology. The Church was forced to pay substantial damages to former Health Minister, Kenneth Robinson, and withdraw their allegations that he had instigated "death camps," likened by the Church to Belsen and Auschwitz.¹

Also in the legal arena are the reports of the many Commissions of Inquiry, and of several U.S. grand jury investigations. These run to tens of thousands of pages. Two books have been written about the attempt made by the Guardian's Office to take over the National Association of Mental Health in the U.K. in the late 1960s, which also ended in a ruling against Scientology in the English High Court.

Of all the court cases, two stand out. Their verdicts came down within a month of each other: one in Los Angeles, the other in London. The first, and perhaps the most revealing to date, was the case brought by the Scientologists against Gerald Armstrong.

Armstrong had joined the Sea Org in 1971. Over the years he held various positions close to Hubbard. During the trial he gave detailed testimony of these periods, and of his time in the Rehabilitation Project Force. His accounts highlighted the extreme duress of life in the Sea Org.

Armstrong saved over twenty boxes of Hubbard letters, diaries and photographs from the shredder at Gilman Hot Springs. On January 8, 1980, he wrote to Hubbard asking permission to collect material for a biography. A few years earlier Hubbard had lamented that no biography could be written because his personal documents had been stolen,

and the great public record.

Far from that, Hubbard had collected and preserved. V. until the late and thence to would no longer government.

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In his judgment Breckenridge Hubbard:

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Far from being stolen by the Russians in the early 1950s, as Hubbard had claimed, his personal archive had quite remarkably been preserved. When the Hubbards left Washington for Saint Hill, in spring 1959, the boxes had been put into storage, where they stayed until the late 1970s. Somehow they had been shipped to La Quinta, and thence to Gilman. Armstrong was excited by the discovery, as it would no longer be necessary to rely on the supposedly corrupted government records, with Hubbard's personal documents in hand.

Hubbard approved Armstrong's request only days before he went into deep hiding. Armstrong was titled "L. Ron Hubbard Personal Public Relations Office Researcher," and he collected over half-a-million pages of material by the end of 1981.

Omar Garrison, who had already written two books favorable to Scientology, was contracted to write the biography in October 1980, and the Archives were made available to him. Armstrong became Garrison's research assistant, copying tens of thousands of the most relevant documents for Garrison's use.

In his judgment in the Scientologists' case against Armstrong, Judge Breckenridge explained the gradual erosion of Armstrong's faith in Hubbard:

During 1980 Defendant Armstrong remained convinced of Hubbard's honesty and integrity and believed that the representations he had made about himself in various publications were truthful. Defendant Armstrong was devoted to Hubbard and was convinced that any information which he discovered to be unflattering of Hubbard or contradictory to what Hubbard has said about himself, was a lie being spread by Hubbard's enemies. Even when Defendant Armstrong located documents in Hubbard's Archives which indicated that representations made by Hubbard and the Organization were untrue, Defendant Armstrong would find some means to "explain away" the contradictory information.

Slowly, however, throughout 1981, Defendant Armstrong began to see that Hubbard and the Organization had continuously lied about Hubbard's past, his credentials, and his accomplishments.

Armstrong began a campaign to correct the numerous misrepresentations, but met with considerable resistance. In November 1981, he was ordered back to Gilman from Los Angeles. He was told by senior

Church official Norman Starkey that he was to be Security-checked. There was no desire to correct Hubbard's biography. To this day, Scientology Orgs sell books which contain the very biographies which Armstrong had proved false; Hubbard's *Mission into Time* is the worst example of many.

On November 25, 1981, Armstrong wrote to Commodore's Messenger Cirrus Slevin:

If we present inaccuracies, hyperbole or downright lies as fact or truth, it doesn't matter what slant we give them, if disproved the man will look, to outsiders at least, like a charlatan. This is what I'm trying to prevent and what I've been working on the past year and a half.

A few weeks later, Armstrong decided to leave the Church. Before leaving, he worked desperately hard to ensure that Omar Garrison had all of the documents necessary for an honest biography. After leaving, he maintained contact with the Biography Project, even helping to find documents in the Archives when the new Archivist was unable to do so, for two months following his departure. Judge Breckenridge's opinion continues:

On February 18, 1982, the Church of Scientology International issued a "Suppressive Person Declare Gerry Armstrong," which is an official Scientology document issued against individuals who are considered enemies of the Organization . . .

Defendant Armstrong was unaware of said Suppressive Person Declare until April of 1982. At that time a revised Declare was issued on April 22, 1982. Said Declare charged Defendant Armstrong with eighteen different "Crimes and High Crimes and Suppressive Acts Against the Church." The charges included theft, juggling accounts, obtaining loans on [sic] money under false pretenses, promulgating false information about the Church, its founder, and members, and other untruthful allegations designed to make Defendant Armstrong an appropriate subject of the Scientology "Fair Game Doctrine." Said Doctrine allows any suppressive person to be "tricked, cheated, lied to, sued, or destroyed."

. . . from his extensive knowledge of the covert and intelligence operations carried out by the Church of Scientology of California against its enemies (suppressive persons), Defendant Armstrong became terrified and feared that his life and the life of his wife were in danger, and he also feared he would be the target of costly and harassing lawsuits. In addition, Mr. Garrison became afraid for the security of the

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documents and believed that the intelligence network of the Church of Scientology would break and enter his home to retrieve them. Thus Defendant Armstrong made copies of certain documents for Mr. Garrison and maintained them in a separate location.

Armstrong, with Garrison's permission, made copies of about 10,000 pages of these documents, and deposited them with attorneys for safe keeping. Michael Flynn was one of these attorneys.

On August 2, 1982, the Church of Scientology of California filed suit against Gerald Armstrong for Conversion (a form of theft); breach of fiduciary duty (breach of trust); and breach of confidence. Mary Sue Hubbard joined the suit against Armstrong as an "intervenor," and added a charge of "Invasion of Privacy" to the suit. Judge Breckenridge's opinion continues:

After the within suit was filed . . . Defendant Armstrong was the subject of harassment, including being followed and surveilled by individuals who admitted employment by Plaintiff; being assaulted by one of these individuals; being struck bodily by a car driven by one of these individuals; having two attempts made by said individuals apparently to involve Defendant Armstrong in a freeway automobile accident; having said individuals come onto Defendant Armstrong's property, spy in his windows, create disturbances, and upset his neighbors. During trial when it appeared that Howard Schomer (a former Scientology) might be called as a defense witness, the Church engaged in a somewhat sophisticated effort to suppress his testimony.

After hearing four weeks of testimony, and deliberating for two weeks, Judge Breckenridge ruled that Gerald Armstrong was entitled to judgment and costs. The preceding quotations come from a fifteen-page appendix to the opinion. The main body of the decision is one of the most forceful statements ever made against the Church of Scientology. Of the Founder and his Church, Judge Breckenridge wrote:

In addition to violating and abusing its own members' civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies. The organization clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, and achievements. The writings and documents in evidence additionally reflect his egoism,

greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile. At the same time it appears that he is charismatic and highly capable of motivating, organizing, controlling, manipulating, and inspiring his adherents. He has been referred to during the trial as a "genius," a "revered person," a man who was "viewed by his followers in awe." Obviously, he is and has been a very complex person, and that complexity is further reflected in his alter ego, the Church of Scientology. Notwithstanding protestations to the contrary, this court is satisfied that LRH runs the Church in all ways through the Sea Organization, his role of Commodore, and the Commodore's Messengers. He has, of course, chosen to go into "seclusion," but he maintains contact and control through the top messengers. Seclusion has its light and dark side too. It adds to his mystique, and yet shields him from accountability and subpoena or service of summons.

LRH's wife, Mary Sue Hubbard is also a plaintiff herein. On the one hand she certainly appeared to be a pathetic individual. She was forced from her post as Controller, convicted and imprisoned as a felon, and deserted by her husband. On the other hand her credibility leaves much to be desired. She struck the familiar pose of not seeing, hearing, or knowing any evil. Yet she was the head of the Guardian Office for years and among other things, authored the infamous order "GO [Guardian's Order] 121669" which directed culling of supposedly confidential P.C. [Preclear] files/folders for the purposes of internal security. In her testimony she expressed the feelings that defendant by delivering the documents, writings, letters to his attorneys, subjected her to mental rape. . . . The court is satisfied that he [Armstrong] did not unreasonably intrude upon Mrs. Hubbard's privacy under the circumstances. . . . It is, of course, rather ironic that the person who authorized G.O. order 121669 should complain about an invasion of privacy. The practice of culling supposedly confidential "P.C. folders or files" to obtain information for purposes of intimidation and/or harassment is repugnant and outrageous. The Guardian's Office, which plaintiff headed, was no respecter of anyone's civil rights, particularly that of privacy.

The documents involved in the case were extensive. They included copies of letters from Hubbard to his father, to his first two wives, and to the children of his first marriage. They also included Hubbard's teenage diaries, his Boy Scout records, poems, and the manuscript of an unpublished book called *Positive Mental Therapy*. Also included were Hubbard's letters to Mary Sue Hubbard over the years, where he said exactly what he was doing while researching the "Technology" of Scientology. For example, there are letters sent from North Africa in late 1966, to Mary Sue at Saint Hill, which give details of the drugs

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Hubbard was taking to "research" the most secret of Scientology's levels, OT3.

During the course of the trial, the judge heard testimony from Armstrong; his wife Jocelyn; Laurel Sullivan, who had been Armstrong's senior on the Biography Project; the proposed author Omar Garrison; Hubbard's nurse Kima Douglas (who left Hubbard in January 1980); and former Author Services Incorporated Treasury Secretary Howard Schomer.

Omar Garrison, who had been commissioned to write the biography, had this to say of the documentation Armstrong provided:

The inconsistencies were implicit in various documents which Mr. Armstrong provided me with respect to Mr. Hubbard's curriculum vitae, with respect to his Navy career, with respect to almost every aspect of his life. These undeniable and documented facts did not coincide with the official published biography that the church had promulgated.

Garrison intended to complete the biography, and continued with this work through 1982. In June 1983, he agreed to a settlement with the Church. The Church wanted to be absolutely sure that the manuscript wasn't made public. Garrison reluctantly agreed. He too had been followed by private detectives, "bumper to bumper." However, Garrison retained copies of documents from the Hubbard archives to ensure the church's good behavior.

Jocelyn Armstrong testified that she had worked on a project where Mission Holders were to sign backdated contracts, Board minutes and resignations.

Kima Douglas was Hubbard's personal Medical Officer from 1975 until her departure on January 16, 1980. From 1977, she was with Hubbard on a daily basis. She was also the head of no less than *fourteen* Scientology corporations, and had written undated resignations from each. Among these was the Religious Research Foundation, which was used to channel monies from the Flagship, and later the Flag Land Base, into non-Church accounts controlled by Hubbard.

Douglas testified that she was with Hubbard when he approved Armstrong's request to collect material for a biography. She had also been present when Hubbard had ordered that supposedly confidential counselling folders should be "culled" for admissions of crimes, and anti-social or immoral actions, for future use. Douglas admitted that she had seen Hubbard display "irrational and abusive" behavior, to

the extent of striking someone. She also revealed the extent of Hubbard's ill health throughout the years she served him.

The myth of L. Ron Hubbard was badly fractured. It seemed that his mesmeric hold over Scientologists, whether Church members or Independents, was slipping. The trance could only be maintained through a stubborn refusal to consider the material now available.

The Judgment in the Armstrong case was filed on June 22, 1984, just as Justice Latey was preparing to hear a child custody case in London.

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my" and in 1981 they brought two law suits against him (summarily dismissed, but costly and worrying). They distributed leaflets at the Massachusetts General Hospital offering a \$25,000 reward to employees for evidence which would lead to his conviction on any charge of criminal activity. They stole his employment record from another Boston hospital. They convened press conferences calculated to ruin his professional reputation.

Justice Latey quoted Hubbard: "The law can be used very easily to harass," and continued:

A sad episode during the hearing was the evidence of a young man. He is greatly gifted and did exceptionally well at School and University. His parents are Scientologists as are his brother and sister. They are all totally committed. He did his first simple course at the age of six, and a further basic course, "The Hubbard Qualified Scientist Course," two years later. Since then he has continued with course after course. . . . It became apparent that he simply could not accept that there was or could be anything wrong with Scientology. The part of his mind which would otherwise have been capable of weighing objectively the criticisms of Scientology had been blocked out by the processing. He has indeed been enslaved.

In his conclusion as to Scientology itself, Justice Latey had this to say:

Scientology is both immoral and socially obnoxious. . . . In my judgment it is corrupt, sinister and dangerous. It is corrupt because it is based on lies and deceit and has as its real objective money and power for Mr. Hubbard, his wife and those close to him at the top. It is sinister because it indulges in infamous practices both to its adherents who do not toe the line unquestioningly, and to those who criticise or oppose it. It is dangerous because it is out to capture people, especially children and impressionable young people, and indoctrinate and brainwash them so that they become the unquestioning captives and tools of the cult, withdrawn from ordinary thought, living and relationships with others.

Mr. Justice Latey awarded custody of the children to the mother. Late in the hearing the father had made a heart-rending proposal: he and his new wife would abandon Scientology until the children had grown up. It was moving, not because he would have to abandon Scientology, but because for making such a suggestion in court he risked being ostracized by the Scientology Church and community,

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Law by the Church of Scientology. However, the award was adjusted to \$2.5 million.

In a surprise move in December 1986, the Church settled every case brought against them through Boston attorney Michael Flynn. They also settled out of court with former Mission Holder Martin Samuels, and with Julie Christofferson-Tichbourne. In a secret agreement, the plaintiffs agreed not to make any further public statements about Scientology, nor to disclose the amount of their settlements. When the document finally leaked out, it contained an interesting clause, saying that the amounts paid in settlement depended in part upon the "length and degree of harassment" each plaintiff had received. The payments amounted to almost \$4 million, with Armstrong taking \$800,000, and Flynn \$1,075,000. For that price the Scientologists bought the silence of their most significant opponents. With the Armstrong settlement, the Hubbard archives material which had been held under seal was returned to the Scientologists. The contents of the Affirmations, the Blood Ritual, and Hubbard's letters to his three wives may never be published; but there is enough historical evidence now in the public record to show Hubbard for what he was. If a piece is broken from a hologram the entire image remains in the fragment. Hubbard too is implicit in every detail of his life, even in some of his most public utterances.

Michael Flynn fought against the Church for seven years. In doing so he spent a great deal of his own money, put his career in jeopardy, faced an unceasing barrage of invective and libel, and had to defend (and managed to win) some fourteen legal complaints brought against him by the Church. He gave succour to many ex-Scientologists. When Flynn settled, he gave all of his Scientology files (apart from client material) to the Church. But he had tried to ensure that the good fight would continue.

Throughout 1986, a group of over 400 former Scientologists gathered to create a Class Action against the Church. They called themselves Freedom for All In Religion, or FAIR. Michael Flynn was closely involved in the initial preparation of their Complaint.

On the last day of 1986, a few weeks after Flynn announced his withdrawal from the fight, the FAIR suit was filed in Los Angeles. It was filed not only against the Church of Scientology, but against its leading executives. There were three causes in the Complaint:

- a. Fraudulent representations have been made by defendants concerning their tax-exempt status and charitable nature, concerning the manner in which monies were obtained and received by L. Ron Hub-

bard and defendants named herein, concerning the confidentiality of defendants' auditing files, and concerning L. Ron Hubbard's background, achievements and character;

b. There has been a breach of fiduciary duty [breach of trust] to all the members of the class;

c. Plaintiffs seek equitable relief and request that a constructive trust be imposed on all pertinent assets of defendants.

A constructive trust would place the Preclear, Ethics and B-1 files of the members of FAIR into the hands of the Court until the case is settled. The suit was filed by a group of six ex-members, and demanded a billion dollars in relief. At the time of writing, after five amended Complaints, FAIR have failed to have a Complaint accepted for trial.

In April 1988, the former Inspector General of the Religious Technology Center filed a suit against various Scientology Organizations. Vicki Aznaran was an executive during the schism, rising to become David Miscavige's immediate junior. She and her husband, Richard, left the Sea Organization in April 1987.

The Aznarans' Complaint criticized the Team Member Share System operated at CMO headquarters, described as:

privately issued money in exchange for food, board, pay, bonuses and liberty. The Team Member System required that the Plaintiffs be given one of each of these cards when the Church administration was satisfied with their work production, and loyalty to the organization. Any dissatisfaction with the work output or 'attitude' of Plaintiffs would result in revocation of the tokens, thereby requiring Plaintiffs to work long hours with no days off, no pay, no board (requiring them to sleep outdoors on the ground [called 'pig berthing' in the Church issue]) and substandard nutrition comprised solely of rice, beans and water. When Plaintiffs had lost all of their cards, as a matter of course, they would be sent to the Rehabilitation Project Force for 'attitude adjustment,' which was comprised of even harsher labor, deprivation of liberty, and psychological duress forcing the submission of Plaintiffs to the power and control of Defendants.

The Aznarans had no reservations about the true intent of Church management, and described their treatment as "brainwashing," and their condition as "slave-like." Further, they asserted that the Scientologists had:

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employed the following psychological devices . . . to cause Plaintiffs to involuntarily abandon their identities, spouses and loyalties, and deprive Plaintiffs of their independent free will. . . . Threats of torture; implementation of brainwashing tactics; threats of physical harm for lack of loyalty . . . lengthy interrogations . . . sudden involuntary and forceable separation of spouses from one another for many months, and depriving the spouses of communication with one another or allowing them to know where the other was located; willfully and expressly inducing divorce between Plaintiffs . . . deliberately inducing fatigue by physical abuse and deprivation of sleep; forcing Plaintiffs to be housed in animal quarters; deliberately confining Plaintiffs to premises under the control of Defendants and under threat of physical harm without allowing Plaintiffs to leave of their own free will; and threatening Plaintiffs that failure to submit to the power and control of Defendants would result in their becoming 'fair game.'

Vicki was sent on "mission" to Los Angeles in 1981 "to purge members of Defendants' organization . . . remove assets of Defendant Church of Scientology of California to overseas trusts where they could not be accessed by plaintiffs or the government, and set up sham corporate structures to evade prosecution generally. Richard was sent with Vicki in the capacity of a security investigator who surveilled members of the organizations associated with Defendants for the purposes of determining their loyalty and likelihood that they would testify against Defendants in pending civil and criminal suits, as well as designated 'enemies' of the Church."

In December 1981, Vicki Aznaran was assigned to Author Services Inc., a for-profit corporation using Sea Org personnel. She was "commissioned to reorganize corporate structures and effect sham sales of millions of copies of *Dianetics* to the corporate Defendants named herein as a vehicle for transferring assets among them."

In Spring 1982, Miscavige deprived Richard Aznaran of all his Team Member shares, and sent him to the Rehabilitation Project Force (RPF) in Los Angeles. His pay was reduced to \$1.25 per week, and he spent ninety-nine days on the RPF. Meanwhile, Vicki worked directly for Hubbard's deputy, Ann Broeker. Meetings between Vicki and Richard were prohibited, so they met surreptitiously.

The Aznarans allege that the intention in October 1982 (the time of the San Francisco Mission Holders' Conference) was "for all Scientology entities to turn over their profits to . . . Author Services, Inc." When Vicki expressed disapproval of this, she was ordered to the RPF in Hemet where, "for approximately 120 days, [she] was forced to

participate in the 'running program.' The running program required Vicki and other persons subjected to the control of Defendants to run around an orange telephone pole from 7:00 a.m. to 9:30 p.m. . . . with ten minute rests every one-half hour, and thirty minute breaks for lunch and dinner."

In about May 1983, Vicki was "deemed rehabilitated" and ordered back to the Religious Technology Center at Gilman. Until Hubbard's death, the Aznarans remained at Gilman, when Richard was ordered to Hubbard's ranch at Creston working there as a security guard for a year and a half: "Richard was forced to falsify time cards to falsely indicate that he had been working forty hour work weeks, so as to avoid an obligation on the part of Defendants from paying him overtime. . . . Richard was forced to sleep in a horse stable with several . . . other indoctrinated employees. During the course of Richard's stay at the ranch, Vicki was not told of his whereabouts, nor were Plaintiffs permitted to correspond with each other."

Most important for the future of Scientology, the Aznarans claim that "in or about February of 1987, a schism arose between Defendant Miscavige and the Broekers, each of whom claimed to possess the 'upper level Holy Scriptures' written by Hubbard."

Miscavige allegedly saw Vicki's demands for contact with her husband as an "expression of allegiance" to the Broekers. Miscavige ordered Vicki to the RPF at "Happy Valley," a "secret location bordering the Sobova Indian Reservation near Gilman . . . overseen and controlled by Defendant Norman Starkey."

Vicki was "not allowed to go anywhere or do anything without her guard being present. At night she was imprisoned by having heavy furniture moved to secure the exit. . . . Defendants kept, and continue to keep all of her physical belongings including a horse and two dogs."

Vicki claimed she "had seen in the past other victims of Happy Valley be beaten upon attempted escape, and their personal belongings destroyed. . . . Vicki and others were made to wear rags taken out of garbage cans, sleep on the ground, dig ditches."

Finally, on about April 9, 1987, "Vicki and two other victims escaped from Happy Valley onto the Sobova Indian Reservation where they were pursued on motorcycles by guards." They were rescued by the Indians.

Richard Aznaran meanwhile was urged to divorce his wife. Instead, that very month they left the Sea Org, though not the Church, and

returned to Dallas business.

The Aznarans received services they had paid for \$59,048.02. They left on January 1, 1988, after an indoctrination technique was unable to comprehend the Defendants."

Fraud is among the practices of the sect designed to increase revenue made to coercive lives to Defendants derived from an exploitation of fear to participate in criminal the obstruction of justice designed to keep the Revenue Service. The indoctrination, physical control of their will and freedom and dedicated.

The Aznarans breached the said by not providing the indoctrination designed to break the servants to Defendants of Defendants in schemes."

Invasion of Privacy to participate in 'coercion' reveal that [sic] that of course, represent April, 1987 . . . J. Aznaran. . . . disclose and give learned from said Vicki was advised

returned to Dallas, Texas, where they started a private investigation business.

The Aznarans received a "Freeloader Bill," for Scientology services they had received while in the Sea Org, amounting to \$59,048.02. They say that they did not seek legal assistance until January 1, 1988, because "As a result of the psychological trauma of indoctrination techniques applied by Defendants . . . Plaintiffs were unable to comprehend their legal rights with regard to the actions of Defendants."

Fraud is among their charges: "Defendants . . . knew that the practices of the so-called Church of Scientology . . . were not designed to increase the well being of any of its victims, but where [sic] made to coercively persuade each and every follower to dedicate their lives to Defendants in order for Defendants to increase their wealth derived from an overall scheme to make money founded on the exploitation of free labor. . . . Defendants . . . required Plaintiffs to participate in crimes against the United States Government, including the obstruction of justice and efforts to create corporate structures designed to keep payments from properly being paid to the Internal Revenue Service. . . . Plaintiffs were subjected to humiliation, degradation, physical labor, and imprisonment, all designed to break down their will and free thinking, and convert them into submissive, frightened and dedicated followers of Defendants."

The Aznarans also charge Breach of Contract: "Defendants . . . breached the said agreements [i.e. the provisions of the staff contract] by not providing any spiritual or psychological services, but rather, providing indoctrination, psychological coercion, duress and stress, all designed to break Plaintiffs' will so that they would remain compliant servants to Defendants for the remainder of their lives, and to the use of Defendants in furtherance of illegal conduct and money making schemes."

Invasion of Privacy is a further charge: "Plaintiffs were forced to participate in 'counselling sessions' in which they were forced to reveal that [sic] their innermost private thoughts and feelings." It was, of course, represented that these would be held in confidence, but "In April, 1987 . . . Defendants . . . read the private file of Plaintiff Vicki J. Aznaran. . . . Defendants . . . demanded that Vicki then publicly disclose and give further details concerning further events they had learned from said file concerning various other victims of Defendants. Vicki was advised, warned and threatened that if she did not give

further details, Defendants, and each of them, would 'get it out of you one way or another.' "

The Complaint is a devastating indictment of the methods and motives of the current Scientology leadership.

In the month the Aznarans filed their Complaint, April 1988, the truth of their allegations about a rift at the top of Scientology were confirmed. David Miscavige, by this time both a captain in the Sea Org and the head of the Religious Technology Center, issued a Flag Order making the issue clear. He asserted that the Broekers had forged Hubbard's last published Order, promoting themselves to the command of the Sea Org as "Loyal Officers." Miscavige cancelled the new rank, saying that Pat Broeker had simply been part of Hubbard's domestic staff. The Broekers were "under standard justice handling" and were "being dealt with appropriately." However while canceling the supposed forgery, Miscavige made no mention of the rank given to Hubbard in it, so Hubbard remained an admiral, promoted, so it would seem, by a member of his domestic staff.

In June 1988, the Scientologists' new ship, the *Freewinds*, took her maiden voyage, with the first public OT8 students aboard. The *Freewinds* is a 440-foot cruise liner capable of carrying 450 passengers, and is based in Curaçao, in the Caribbean. As yet there is no indication that the Scientologists will return to their earlier shipboard practices.

At the end of June, the Scientologists filed a Complaint against their former attorney, Joseph Yanny, accusing him of "treachery," and saying he had "joined forces with confederates to mastermind and prosecute an action." The preamble to the Complaint says "what follows is a chronicle of betrayal, deception, and conspiracy practiced by members of the bar as a vendetta against a former client, and callous disregard of fiduciary and ethical obligations." Yanny responded with a declaration alleging that he had left the services of the Church because he was asked to participate in an attempt to blackmail an attorney hostile to the Church.

At the same time, an investigating magistrate in Milan started making arrests. By September 1988, seventy-six Scientologists had been committed for trial charged with offenses ranging from fraud to medical malpractice, and taking in criminal conspiracy to extort money and unlawful detention. The Scientology drug rehabilitation group, Narconon, came in for particularly stringent criticism: "Extravagant therapies were applied which yielded no practical results other than

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In November, Spanish police raided Scientology organizations (including Narconons) in Madrid, Barcelona, Valencia, Alicante, Seville, Jerez, Bilbao, Burgos and Ondaroa. Sixty-nine people were arrested, including the President of the Church of Scientology International, Heber Jentzsch. Eleven were eventually detained. The arrests followed a nine-month investigation headed by Judge Honrubia, who described Scientology as "a multinational organization whose sole aim is making quick money under the guise of doing good." The judge concurred with the Italian opinion of Narconon, saying that their establishments were dirty, run by untrained staff and were actually little more than recruitment centers for Scientology. A Scientology spokesman muttered about Spain's "fascist past," and Jentzsch accused Spain of a return to the Inquisition. He and two other non-residents were bailed for a million dollars the next month, pending trial.

PART NINE

SUMMING UP

Scientology's may be the most debilitating set of rituals of any cult in America.—CONWAY and SIEGELMAN, "Information Disease," *Science Digest*, January 1982

and his conclusions. At the time, Simmons was a convinced Scientologist; since leaving the Church he probably regrets aspects of his statement. Research physicist, and former Stanford professor, Harold Puthoff, was also a member of the Church. Puthoff, who holds several patents for laser developments, is best known for his books on parapsychology co-written with Russell Targ. Ingo Swann, who was the subject in some of Puthoff and Targ's parapsychology experiments, was a member of the Church for some years. His novel *Star Fire* was a best seller. Another Scientologist also achieved best seller status with a novel about reincarnation.

A group of Oxford graduates were long-term members. A number of medical doctors, dentists and lawyers have been involved. Over the years Scientology has also boasted the adherence of several celebrities. Virtuoso jazz pianist Chick Corea, a member since 1968, is an OT, as is Stanley Clarke, the highly influential jazz bass player. Clarke has left the Church, but Corea remains in the fold. The Incredible String Band were Scientologists, and distributed Scientology literature at their gigs. Actors John Travolta and Karen Black are both Church members, as is "Waltons" star Judy Norton-Taylor. Priscilla Presley has been involved for many years, and Elvis' daughter, Lisa Marie, is a Sea Org member. Van Morrison was associated with Scientology for a short while. The novelist William Burroughs went Clear in the 1960s, but later satirized the movement in several novels. Scientology has also attracted many millionaires, and several multi-millionaires.

Most cults have a single selling feature, and so tend to appeal to a specific public. Scientology claims to be all things to all people: a psychotherapy, a religion, twentieth-century Buddhism, an educational system, a drug rehabilitation therapy, a human rights and social reform movement, or a business management system. It is spiritual, mental or material according to the mind-set of the person being approached. Scientology front groups appeal to different publics. Scientologists are drilled to quickly isolate an individual's concerns and tailor an approach which encourages interest.

The most contentious of these self-made characterizations is that of religion. Whether Scientology is a "religion" is a matter of definition. Because of the very broad nature of the definition of religion in the United States, it has been established that Scientology is a religion in the legal sense. However, in the United States religious status does not automatically give an organization tax-exemption, which Scientology has failed to achieve. In Australia, Scientology is also recognized as a

MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT

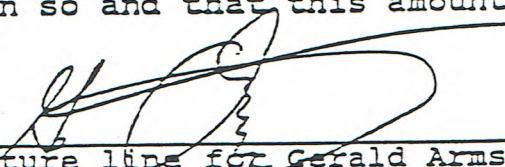
1. This Mutual Release of All Claims and Settlement Agreement is made between Church of Scientology International (hereinafter "CSI") and Gerald Armstrong, (hereinafter "Plaintiff") Cross-Complainant in Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153. By this Agreement, Plaintiff hereby specifically waives and releases all claims he has or may have from the beginning of time to and including this date, including all causes of action of every kind and nature, known or unknown for acts and/or omissions against the officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel of CSI as well as the Church of Scientology of California, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; Religious Technology Center, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; Author Services, Inc., its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; L. Ron Hubbard, his heirs, beneficiaries, Estate and its executor; Author's Family Trust, its beneficiaries and its trustee; and Mary Sue Hubbard, (all hereinafter collectively referred to as the

"Releasees"). The parties to this Agreement hereby agree as follows:

2. It is understood that this settlement is a compromise of doubtful and disputed claims, and that any payment is not to be construed, and is not intended, as an admission of liability on the part of any party to this Agreement, specifically, the Releasees, by whom liability has been and continues to be expressly denied. In executing this settlement Agreement, Plaintiff acknowledges that he has released the organizations, individuals and entities listed in the above paragraph, in addition to those defendants actually named in the above lawsuit, because among other reasons, they are third party beneficiaries of this Agreement.

3. Plaintiff has received payment of a certain monetary sum which is a portion of a total sum of money paid to his attorney, Michael J. Flynn. The total sum paid to Mr. Flynn is to settle all of the claims of Mr. Flynn's clients. Plaintiff's portion of said sum has been mutually agreed upon by Plaintiff and Michael J. Flynn. Plaintiff's signature below this paragraph acknowledges that Plaintiff is completely satisfied with the monetary consideration negotiated with and received by Michael J. Flynn. Plaintiff acknowledges that there has been a block settlement between Plaintiff's attorney, Michael J. Flynn, and the Church of Scientology and Churches and entities related to the Church of Scientology, concerning all of Mr. Flynn's clients who were in litigation with any Church of Scientology or related entity. Plaintiff has received a portion of this block,

amount, the receipt of which he hereby acknowledges. Plaintiff understands that this amount is only a portion of the block settlement amount. The exact settlement sum received by Plaintiff is known only to Plaintiff and his attorney, Michael J. Flynn, and it is their wish that this remain so and that this amount remain confidential.



Signature line for Gerald Armstrong

4. For and in consideration of the above described consideration, the mutual covenants, conditions and release contained herein, Plaintiff does hereby release, acquit and forever discharge, for himself, his heirs, successors, executors, administrators and assigns, the Releasees, including Church of Scientology of California, Church of Scientology International, Religious Technology Center, all Scientology and Scientology affiliated organizations and entities, Author Services, Inc. (and for each organization or entity, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel); L. Ron Hubbard, his heirs, beneficiaries, Estate and its executor; Author's Family Trust, its beneficiaries and trustee; and Mary Sue Hubbard, and each of them, of and from any and all claims, including, but not limited to, any claims or causes of action entitled Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153 and all demands, damages, actions and causes of actions of every kind and nature, known or unknown,

for or because of any act or omission allegedly done by the Releasees, from the beginning of time to and including the date hereof. Therefore, Plaintiff does hereby authorize and direct his counsel to dismiss with prejudice his claims now pending in the above referenced action. The parties hereto will execute and cause to be filed a joint stipulation of dismissal in the form of the one attached hereto as Exhibit "A".

A. It is expressly understood by Plaintiff that this release and all of the terms thereof do not apply to the action brought by the Church of Scientology against Plaintiff for Conversion, Fraud and other causes of action, which action has already gone to trial and is presently pending before the Second District, Third Division of the California Appellate Court (Appeal No. B005912). The disposition of those claims are controlled by the provisions of the following paragraph hereinafter.

B. As of the date this settlement Agreement is executed, there is currently an appeal pending before the California Court of Appeal, Second Appellate District, Division 3, arising out of the above referenced action delineated as Appeal No. B005912. It is understood that this appeal arises out of the Church of Scientology's complaint against Plaintiff which is not settled herein. This appeal shall be maintained notwithstanding this Agreement. Plaintiff agrees to waive any rights he may have to take any further appeals from any decision eventually reached by the Court of Appeal or any rights he may have to oppose (by responding brief or any other means) any further appeals taken by the Church of

Scientology of California. The Church of Scientology of California shall have the right to file any further appeals it deems necessary.

5. For and in consideration of the mutual covenants, conditions and release contained herein, and Plaintiff dismissing with prejudice the action Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153, the Church of Scientology of California does hereby release, acquit and forever discharge for itself, successors and assigns, Gerald Armstrong, his agents, representatives, heirs, successors, assigns, legal counsel and estate and each of them, of and from any and all claims, causes of action, demands, damages and actions of every kind and nature, known or unknown, for or because of any act or omission allegedly done by Gerald Armstrong from the beginning of time to and including the date hereof.

6. In executing this Agreement, the parties hereto, and each of them, agree to and do hereby waive and relinquish all rights and benefits afforded under the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7. Further, the undersigned hereby agree to the following:

A. The liability for all claims is expressly denied by the parties herein released, and this final compromise and

settlement thereof shall never be treated as an admission of liability or responsibility at any time for any purpose.

B. Plaintiff has been fully advised and understands that the alleged injuries sustained by him are of such character that the full extent and type of injuries may not be known at the date hereof, and it is further understood that said alleged injuries, whether known or unknown at the date hereof, might possibly become progressively worse and that as a result, further damages may be sustained by Plaintiff; nevertheless, Plaintiff desires by this document to forever and fully release the Releasees. Plaintiff understands that by the execution of this release no further claims arising out of his experience with, or actions by, the Releasees, from the beginning of time to and including the date hereof, which may now exist or which may exist in the future may ever be asserted by him or on his behalf, against the Releasees.

C. Plaintiff agrees to assume responsibility for the payment of any attorney fee, lien or liens, imposed against him past, present, or future, known or unknown, by any person, firm, corporation or governmental entity or agency as a result of, or growing out of any of the matters referred to in this release. Plaintiff further agrees to hold harmless the parties herein released, and each of them, of and from any liability arising therefrom.

D. Plaintiff agrees never to create or publish or attempt to publish, and/or assist another to create for publication by means of magazine, article, book or other

similar form, any writing or to broadcast or to assist another to create, write, film or video tape or audio tape any show, program or movie, or to grant interviews or discuss with others, concerning their experiences with the Church of Scientology, or concerning their personal or indirectly acquired knowledge or information concerning the Church of Scientology, L. Ron Hubbard or any of the organizations, individuals and entities listed in Paragraph 1 above. Plaintiff further agrees that he will maintain strict confidentiality and silence with respect to his experiences with the Church of Scientology and any knowledge or information he may have concerning the Church of Scientology, L. Ron Hubbard, or any of the organizations, individuals and entities listed in Paragraph 1 above. Plaintiff expressly understands that the non-disclosure provisions of this subparagraph shall apply, inter alia, but not be limited, to the contents or substance of his complaint on file in the action referred to in Paragraph 1 hereinabove or any documents as defined in Appendix "A" to this Agreement, including but not limited to any tapes, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard, or any of the organizations, individuals, or entities listed in Paragraph 1 above. The attorneys for Plaintiff, subject to the ethical limitations restraining them as promulgated by the state or federal regulatory associations or agencies, agree not to disclose any of the terms and conditions of the settlement negotiations, amount of the

settlement, or statements made by either party during settlement conferences. Plaintiff agrees that if the terms of this paragraph are breached by him, that CSI and the other Releasees would be entitled to liquidated damages in the amount of \$50,000 for each such breach. All monies received to induce or in payment for a breach of this Agreement, or any part thereof, shall be held in a constructive trust pending the outcome of any litigation over said breach. The amount of liquidated damages herein is an estimate of the damages that each party would suffer in the event this Agreement is breached. The reasonableness of the amount of such damages are hereto acknowledged by Plaintiff.

E. With exception to the items specified in Paragraph 7(L), Plaintiff agrees to return to the Church of Scientology International at the time of the consummation of this Agreement, all materials in his possession, custody or control (or within the possession, custody or control of his attorney, as well as third parties who are in possession of the described documents), of any nature, including originals and all copies or summaries of documents defined in Appendix "A" to this Agreement, including but not limited to any tapes, computer disks, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard or any of the organizations, individuals or entities listed in Paragraph 1 above, all evidence of any nature, including evidence obtained from the named defendants through discovery, acquired for the purposes of this lawsuit or any lawsuit, or acquired for any other purpose

concerning any Church of Scientology, any financial or administrative materials concerning any Church of Scientology, and any materials relating personally to L. Ron Hubbard, his family, or his estate. In addition to the documents and other items to be returned to the Church of Scientology International listed above and in Appendix "A", Plaintiff agrees to return the following:

(a) All originals and copies of the manuscript for the work "Excalibur" written by L. Ron Hubbard;

(b) All originals and copies of documents commonly known as the "Affirmations" written by L. Ron Hubbard; and

(c) All documents and other items surrendered to the Court by Plaintiff and his attorneys pursuant to Judge Cole's orders of August 24, 1982 and September 4, 1982 and all documents and other items taken by the Plaintiff from either the Church of Scientology or Omar Garrison. This includes all documents and items entered into evidence or marked for identification in Church of Scientology of California v. Gerald Armstrong, Case No. C 420 153. Plaintiff and his attorney will execute a Joint Stipulation or such other documents as are necessary to obtain these documents from the Court. In the event any documents or other items are no longer in the custody or control of the Los Angeles Superior Court, Plaintiff and his counsel will assist the Church in recovering these documents as quickly as possible, including but not limited to those tapes and other documents now in the possession of the United States District Court in the case of United States v. Zolin, Case No. CV

85-0440-HLH(Tx), presently on appeal in the Ninth Circuit Court of Appeals. In the event any of these documents are currently lodged with the Court of Appeal, Plaintiff and his attorneys will cooperate in recovering those documents as soon as the Court of Appeal issues a decision on the pending appeal.

To the extent that Plaintiff does not possess or control documents within categories A-C above, Plaintiff recognizes his continuing duty to return to CSI any and all documents that fall within categories A-C above which do in the future come into his possession or control.

F. Plaintiff agrees that he will never again seek or obtain spiritual counselling or training or any other service from any Church of Scientology, Scientologist, Dianetics or Scientology auditor, Scientology minister, Mission of Scientology, Scientology organization or Scientology affiliated organization.

G. Plaintiff agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology.

H. Plaintiff agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. Plaintiff shall not make

himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpoena, Plaintiff agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his immediate family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed.

I. The parties hereto agree that in the event of any future litigation between Plaintiff and any of the organizations, individuals or entities listed in Paragraph 1 above, that any past action or activity, either alleged in this lawsuit or activity similar in fact to the evidence that was developed during the course of this lawsuit, will not be used by either party against the other in any future litigation. In other words, the "slate" is wiped clean concerning past actions by any party.

J. It is expressly understood and agreed by Plaintiff that any dispute between Plaintiff and his counsel as to the proper division of the sum paid to Plaintiff by his attorney of record is between Plaintiff and his attorney of record and shall in no way affect the validity of this Mutual Release of All Claims and Settlement Agreement.

K. Plaintiff hereby acknowledges and affirms that he is not under the influence of any drug, narcotic, alcohol or other mind-influencing substance, condition or ailment such that his ability to fully understand the meaning of this Agreement and the significance thereof is adversely affected.

L. Notwithstanding the provisions of Paragraph 7(E) above, Plaintiff shall be entitled to retain any artwork created by him which concerns or relates to the religion of Scientology, L. Ron Hubbard or any of the organizations, individuals or entities listed in Paragraph 1 above provided that such artwork never be disclosed either directly or indirectly, to anyone. In the event of a disclosure in breach of this Paragraph 7(L), Plaintiff shall be subject to the liquidated damages and constructive trust provisions of Paragraph 7(D) for each such breach.

8. Plaintiff further agrees that he waives and relinquishes any right or claim arising out of the conduct of any defendant in this case to date, including any of the organizations, individuals or entities as set forth in Paragraph 1 above, and the named defendants waive and relinquish any right or claim arising out of the conduct of Plaintiff to date.

9. This Mutual Release of All Claims and Settlement Agreement contains the entire agreement between the parties hereto, and the terms of this Agreement are contractual and not a mere recital. This Agreement may be amended only by a written instrument executed by Plaintiff and CSI. The parties hereto have carefully read and understand the contents of this Mutual Release of All Claims and Settlement Agreement and sign the same of their own free will, and it is the intention of the parties to be legally bound hereby. No other prior or contemporaneous agreements, oral or written, respecting such matters, which are not specifically

incorporated herein shall be deemed to in any way exist or bind any of the parties hereto.

10. Plaintiff agrees that he will not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement.

11. The parties to this Agreement acknowledge the following:

A. That all parties enter into this Agreement freely, voluntarily, knowingly and willingly, without any threats, intimidation or pressure of any kind whatsoever and voluntarily execute this Agreement of their own free will;

B. That all parties have conducted sufficient deliberation and investigation, either personally or through other sources of their own choosing, and have obtained advice of counsel regarding the terms and conditions set forth herein, so that they may intelligently exercise their own judgment in deciding whether or not to execute this Agreement; and

C. That all parties have carefully read this Agreement and understand the contents thereof and that each reference in this Agreement to any party includes successors, assigns, principals, agents and employees thereof.

12. Each party shall bear its respective costs with respect to the negotiation and drafting of this Agreement and

all acts required by the terms hereof to be undertaken and performed by that party.

13. To the extent that this Agreement inures to the benefit of persons or entities not signatories hereto, this Agreement is hereby declared to be made for their respective benefits and uses.

14. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

15. This Agreement shall not be construed against the party preparing it, but shall be construed as if both parties prepared this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

16. In the event any provision hereof be unenforceable, such provision shall not affect the enforceability of any other provision hereof.

17. All references to the plural shall include the singular and all references to the singular shall include the plural. All references to gender shall include both the masculine and feminine.

18.(A) Each party warrants that they have received independent legal advice from their attorneys with respect to the advisability of making the settlement provided for herein and in executing this Agreement.

(B) The parties hereto (including any officer, agent, employee, representative or attorney of or for any party) acknowledge that they have not made any statement,

representation or promise to the other party regarding any fact material to this Agreement except as expressly set forth herein. Furthermore, except as expressly stated in this Agreement, the parties in executing this Agreement do not rely upon any statement, representation or promise by the other party (or of any officer, agent, employee, representative or attorney for the other party).

(C) The persons signing this Agreement have the full right and authority to enter into this Agreement on behalf of the parties for whom they are signing.

(D) The parties hereto and their respective attorneys each agree not to disclose the contents of this executed Agreement. Nothing herein shall be construed to prevent any party hereto or his respective attorney from stating that this civil action has been settled in its entirety.

(E) The parties further agree to forbear and refrain from doing any act or exercising any right, whether existing now or in the future, which act or exercise is inconsistent with this Agreement.

19. Plaintiff has been fully advised by his counsel as to the contents of this document and each provision hereof. Plaintiff hereby authorizes and directs his counsel to dismiss with prejudice his claims now pending in the action entitled Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153.

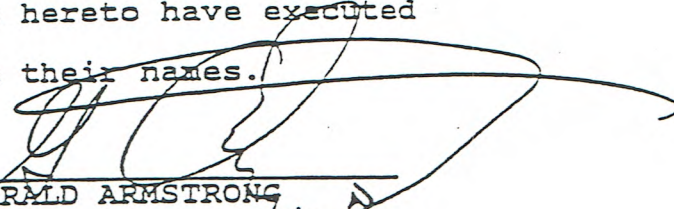
20. Notwithstanding the dismissal of the lawsuit pursuant to Paragraph 4 of this Agreement, the parties hereto agree that the Los Angeles Superior Court shall retain

jurisdiction to enforce the terms of this Agreement. This Agreement may be enforced by any legal or equitable remedy, including but not limited to injunctive relief or declaratory judgment where appropriate. In the event any party to this Agreement institutes any action to preserve, to protect or to enforce any right or benefit created hereunder, the prevailing party in any such action shall be entitled to the costs of suit and reasonable attorney's fees.

21. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date opposite their names.

Dated: December 6, 1985


GERALD ARMSTRONG

Ann A. Richardson
Witness

Michael J. Flynn
Witness

Dated: 12/6/86

APPROVED AS TO FORM AND
CONTENT:

M. J. Flynn
MICHAEL J. FLYNN
Attorney for
GERALD ARMSTRONG

Dated: December 11, 1986

Heber C. J. [Signature]
for
CHURCH OF SCIENTOLOGY
INTERNATIONAL

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SETTLEMENT AGREEMENT

A. PRIOR SETTLEMENTS:

Settlement agreements made prior to November 1, 1986 and prior to the collective settlement stated below:

<u>Client</u>	<u>Amount</u>	<u>Fee and Expenses</u>
(1) Bears	\$115,000.00	To be determined with local counsel
(2) Garritys	\$175,000.00	To be determined with local counsel
(3) Petersons	\$175,000.00	To be determined with local counsel
(4) Jefferson	\$150,000.00	To be determined with local counsel
(5) Lockwood	\$150,000.00	To be determined with local counsel
(6) Hartwell	\$150,000.00	To be determined with local counsel
	<u>\$915,000.00</u>	To be determined with local counsel

B. INDEPENDENT SETTLEMENT:

The Christofferson-Titchborne settlement was made separate from the collective settlement. It was agreed to between attorney Gary McMurray, his client, Julie Christofferson-Titchborne and the Church of Scientology.

<u>Client</u>	<u>Amount</u>	<u>Fee and Expenses</u>
Christofferson-Titchborne	\$100,000.00	To be determined by attorney McMurray and client. None of the attorneys representing other clients in the collective settlement represent or have represented Christofferson-Titchborne.

C. COLLECTIVE SETTLEMENT:

The following cases/clients are part of a collective settlement made on December 11, 1986. The undersigned acknowledge that the settlement set forth above in Paragraphs A and B were made as separate settlements, meaning that the cases/clients listed in Paragraphs A and B agreed to the amounts stated therein prior to the collective settlement as in Paragraph A, and independent from the collective settlement as in Paragraph B. The total amount of the collective settlement is \$2,800,000.00. The total amount of the collective settlement and the prior independent settlements in Paragraphs A and B is \$3,815,000.00. The collective settlement allocation is as follows:

<u>Client</u>	<u>Amount</u>	<u>Fee and Expenses</u>
(1) Nancy Dincalci	\$ 7,500.00	None
(2) Kim Douglas	\$ 7,500.00	None
(3) " " "	" " "	" " "
(4) " " "	" " "	" " "

(3)	Robert Dardano	\$ 15,000.00	None
(4)	Warren Friske	\$ 15,000.00	None
(5)	William Franks	\$ 40,000.00	None
(6)	Laurel Sullivan	\$ 40,000.00	None
(7)	Edward Walters	\$100,000.00	To be determined between client and attorneys
(8)	Howard Schomer	\$200,000.00	To be determined between attorney Bunch and client
(9)	Martin Samuels	\$500,000.00	To be determined between attorney McMurray and client
(10)	Gerald Armstrong v. Church of Scientology	\$800,000.00	To be determined between attorney Bunch and client
(11)	Fees and expenses to attorneys Contos & Bunch, Robert Kilbourne, Michael Flynn, and associated counsel for the prosecution and defense of various cases including the "Hubbard documents" case, the "check- frame up" case and the defense of approximately 17 lawsuits against attorney Flynn and his clients.	\$500,000.00	To be determined between attorneys Contos & Bunch, Michael Flynn, Robert Kilbourne, and associated counsel
(12)	Flynn v. Ingram (No. _____) Flynn v. Hubbard (No. _____)	\$575,000.00 -0-	To be determined between attorney Flynn and his counsel
		\$2,800,000.00	

We, the undersigned, agree and acknowledge that

- (1) we have read the foregoing Settlement Agreement;
- (2) that we agree with the total settlement amount and the allocations to the respective cases/clients as set forth therein;
- (3) that we have either consulted, been advised to consult, or have had the opportunity to consult with attorneys other than Michael J. Flynn who, we acknowledge is also a claimant against the Church of Scientology and L. Ron Hubbard;
- (4) that we agree to maintain the confidentiality of this Settlement Agreement;
- (5) that we acknowledge that many of the cases/clients involved in this settlement have been in litigation against the Church of Scientology for more than six to seven years, that many have been subjected to intense, and prolonged harassment by the Church of Scientology throughout the litigation, and that the value of the respective claims stated therein is measured in part by the (a) length and degree of harassment; (b) length and degree of involvement in the litigation; (c) the individual nature of each respective claim in connection with either their involvement with the Church of Scientology as a member and/or as a litigant; (d) the unique value of each case/client based on a variety of things including, but not limited to, the current procedural posture of a case, specific facts unique to each case, and financial, emotional or consequential damage in each case; that we agree and

acknowledge that Michael J. Flynn has primarily been responsible for bearing the cost of the litigation over a period of approximately seven years, that he or his firm's members have been required to defend approximately 17 lawsuits and/or civil/criminal contempt actions instituted by the Church of Scientology against him, his associates and clients, that he and his family have been subjected to intense and prolonged harassment, and that his claims against the Church of Scientology and L. Ron Hubbard, and his participation as an attorney have a unique value which is accurately and properly reflected in the allocations set forth herein.

Nancy Bincalci
NANCY BINCALCI

DATE: Dec 5, 1986

Kina Douglas
KINA DOUGLAS

DATE: Dec 5 - 1986

Robert Dardano
ROBERT DARDANO

DATE: Dec - 20 - 1986

Warren Friske
WARREN FRISKE

DATE: _____

Laurel Sullivan
LAUREL SULLIVAN

DATE: Dec 7, 1986

Julia Christofferson
JULIA CHRISTOFFERSON

DATE: Dec 6, 1986

EXHIBIT H

Paul G. Franks
William H. Franks
 WILLIAM FRANKS

Edward Walters
 EDWARD WALTERS

Howard Schomer
 HOWARD SCHOMER

Martin Samuels
 MARTIN SAMUELS

Gerald Armstrong
 GERALD ARMSTRONG

MICHAEL J. FLYNN

CONTOS & BUNCH
 A PROFESSIONAL CORPORATION

BY: Bruce H. Bunch
 BRUCE H. BUNCH JULIA PRASOENIC

Gary Mc Murray
 GARY MC MURRAY

ROBERT KILGOURNE

Jane Patterson
 3:3:17

Richard Patterson

...
 ...

DATE: _____

DATE: ...

DATE: ...

DATE: 12-5-86

DATE: Dec 4, 1986

DATE: 12-6-86

DATE: _____

DATE: 12-10-86

DATE: December 6, 1986

DATE: _____

DATE: _____

DATE: _____

... 12/1/86 EXHIBIT H

DEPT: 57

Date DEC. 12, 1986

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

HONORABLE G BREECKENRIDGE, JR JUDGE

R HART

, Deputy Clerk

Deputy Sheriff

NONE

, Reporter

(Parties and counsel checked if present)

NONE

Court Attendant

C420153

GERALD ARMSTRONG,

Counsel for
X-- Plaintiff

VS

Counsel for
X-- Defendant

CHURCH OF SCIENTOLOGY OF
CALIFORNIA,

NATURE OF PROCEEDINGS: ORDER

The Clerk having this date had conversations with counsel for cross-defendant, John G. Peterson, the Court finds that the document entitled "Mutual Release of All Claims and Settlement Agreement" referred to in the Joint Stipulation of dismissal as and executed copy and referred to in the Order Dismissing Action as an executed duplicated original, has not been filed with the court.

Good cause appearing therefor, the Court orders that the County Clerk may maintain the remaining six (6) exhibits in the normal and regular manner of handling sealed exhibits.

D

DEPT. 57

MINUTES ENTERED

12-12-86

COUNTY CLERK

FILED

DEC 11 1986

FRANK S. ZOLIN County Clerk

BY ROSIE M. HART, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

GERALD ARMSTRONG,) No. C 420 153
(Severed Action)

Cross-Complainant,

v.

ORDER DISMISSING ACTION
WITH PREJUDICE

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, a California
Corporation,

Cross-Defendant.

Upon consideration of the parties' Stipulation for
Dismissal, the "Mutual release of All Claims and Settlement
Agreement" and the entire record herein, it is

ORDERED AND ADJUDGED:

1. That this action is dismissed with prejudice.
2. That an executed duplicate original of the
parties' "Mutual Release of All Claims and Settlement Agreement"
filed herein under seal shall be retained by the Clerk of this
Court under seal.

Dated: December 11, 1986

Paul G. Breckenridge
Hon. Paul G. Breckenridge

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 57

HON. PAUL G. BRECKENRIDGE, JR., JUDGE

GERALD ARMSTRONG,

Cross-Complainant,

vs.

No. C 420 153

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Cross-Defendant.

MARY SUE HUBBARD,

Intervenor.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Thursday, December 11, 1986

APPEARANCES:

For the Cross-
Complainant:

CONTOS & BUNCH
By: JULIA DRAGOJEVIC and
MICHAEL FLYNN
5855 Topanga Canyon Boulevard
Suite 400
Woodland Hills, California 913677

For the Cross-
Defendant:

PETERSON & BRYNAN
By: JOHN G. PETERSON
8530 Wilshire Boulevard, Suite 407
Beverly Hills, California 90211

(Appearances
Continued Inside)

COPY

NANCY L. HARRIS, CSR No. 644
Official Reporter

1 APPEARANCES: (Continued)

2
3 For the Founding
4 Church of Scientology
5 and Intervenor:

MICHAEL LEE HERTZBERG
Pro Hac Vice
275 Madison Avenue
New York, New York 10016

6 Also Present:

LAWRENCE E. HELLER

1. LOS ANGELES, CALIFORNIA; THURSDAY, DECEMBER 11, 1986; 4:03 P.M.

2. ---OOO---

3.
4. THE COURT: All right. The parties are here on Armstrong
5. versus Church of Scientology.

6. MR. FLYNN: We are here.

7. After lengthy negotiations, Your Honor, between
8. myself and Mr. Hertzberg on behalf of the Church and
9. Mary Sue Hubbard, we are extremely happy to report to the
10. court that the court will not have to try this case, this
11. counterclaim in March.

12. The parties have resolved the case to the satis-
13. faction of Mr. Armstrong and to myself and to Mr. Hertzberg's
14. client.

15. THE COURT: How about Miss Dragojevic?

16. MS. DRAGOJEVIC: I think I will go along with it.

17. MR. PETERSON: Maybe we should identify ourselves for
18. the record.

19. THE COURT: Yes, probably a good idea.

20. MR. FLYNN: Michael Flynn for Gerald Armstrong.

21. MS. DRAGOJEVIC: Julia Dragojevic for Gerald Armstrong.

22. MR. HELLER: Lawrence Heller, and I am here in case there
23. were any questions. I had a little input in the settlement.

24. MR. PETERSON: John Peterson for the Church of
25. Scientology of California.

26. MR. HERTZBERG: Michael Lee Hertzberg for Mary Sue
27. Hubbard, who is the intervenor in the underlying original case
28. of the Church of Scientology against Gerald Armstrong.

1 MR. FLYNN: Pursuant to the settlement, Your Honor, the
2 parties have entered into a stipulation which we will provide
3 the court to have the return of all documents to the Church
4 with the exception of six documents which are currently under
5 litigation in United States versus Scientology, the case that
6 the government is trying to get six exhibits on, and the order
7 that we provided to the court contemplates the exemption of
8 those six exhibits.

9 We have also entered into a stipulation with
10 regard to the sealing of the court records, and I believe
11 Mr. Hertzberg has copies.

12 MR. PETERSON: I have the original of the stipulations
13 and the order. I would present it to the clerk for filing
14 and she could give it to the court. Might want to follow
15 along.

16 THE COURT: I have read the proposed stipulation and
17 order that have been submitted. And the question arises in my
18 mind, what about the -- does this dismissal have anything at
19 all to do with the underlying case that is presently on
20 appeal?

21 MR. FLYNN: It doesn't, Your Honor.

22 Certain issues in that case are going to remain
23 on appeal pursuant to the stipulation of the parties.

24 THE COURT: Well, won't those exhibits have to remain
25 with the court? As that matter is still on appeal?

26 MR. HERTZBERG: Your Honor --

27 THE COURT: I don't mean the ones that are just sitting
28 down in the clerk's office, but I mean the ones that have been

3
1 marked and received either as an exhibit for identification or
2 received in evidence in the case.

3 MR. HERTZBERG: I don't believe they all do, Your
4 Honor.

5 I think that the court of appeal has chosen
6 certain exhibits, a discrete number of them which they have
7 before them and they have made that choice, so I don't think --
8 certainly as Your Honor has recognized, none of the other
9 documents would be affected, and I don't know how many
10 documents we are talking about that may be before the court
11 of appeal --

12 THE COURT: Well, I mean, there is a problem. I don't
13 know what the court of appeal is going to do.

14 Let's assume they reverse it and send it back for
15 a new trial. I assume these exhibits will still have to be
16 used if the case is going to be retried on the underlying
17 complaint.

18 MR. FLYNN: Pursuant to the issues that are remaining,
19 Your Honor, I think that the parties' overall stipulation is
20 such that we will not need those exhibits on any retrial if,
21 in fact, there is a retrial.

22 I think Mr. Armstrong is satisfied, and I know
23 I am satisfied, that we won't need them.

24 MR. HERTZBERG: Your Honor, that was a decision that is
25 part of the agreement that was made, a very important part of
26 it, may I add an indispensable part of it. And after
27 Mr. Armstrong consulted with counsel, this is part of what we
28 bargained for.

1 So they are willing to proceed on that basis, and
2 I don't think that the court should get involved, frankly.

3 THE COURT: Well, I am just trying to raise an issue
4 here. I don't want six months downstream or a year somebody
5 to start screaming, "Where are these exhibits? We need to
6 retry this case."

7 If the court of appeal does one thing, they
8 affirm, there may be a petition for hearing with the
9 California Supreme Court or with the United States Supreme
10 Court..

11 MR. HERTZBERG: Your Honor, we contemplated all that.

12 That is why these negotiations were so arduous
13 and time consuming, and we have arrived today, all those
14 possibilities were discussed between our side and Mr. Flynn,
15 and each side knows what they are bargaining for here. And
16 Mr. Armstrong has signed a stipulation for return of sealed
17 materials and exhibits which is before Your Honor.

18 The order tracks that. It has the additional
19 language in it that it exempts from the scope of the return
20 those documents that the federal court might be interested in,
21 and that is what the agreement was between the parties.

22 THE COURT: What exhibits does the court of appeal
23 have?

24 MR. FLYNN: I am not sure, Your Honor, but I suppose,
25 having argued the appellate case, I suppose there is a simple
26 answer, also, to Your Honor's question in light of the
27 stipulation. The appeals court could always simply request
28 whatever exhibits it wants from the appellant in that case.

1 THE COURT: In Los Angeles we call it appellant.

2 MR. FLYNN: The appellant, whoever it is, them.

3 THE COURT: That is with the French, Bostonian or
4 something.

5 MR. HERTZBERG: Your Honor, I am informed that the court
6 of appeal asked for 50 documents and they have them. So for
7 the moment, presumably those could not be returned by the
8 clerk of this court.

9 THE COURT: Well, it is the parties' agreement, then,
10 but whatever they have got, the county clerk is no longer to
11 be custodian of those and they will be returned to the parties
12 by stipulation of the parties.

13 MR. HERTZBERG: That is what we stipulated to in
14 writing. That is an integral part of this settlement.

15 MR. PETERSON: And when the 50 documents come back --

16 THE COURT: If it is what the parties want to do, it is
17 okay with me.

18 MR. PETERSON: And when the 50 documents come back from
19 the court of appeal, they also will be turned over to the
20 Church.

21 THE COURT: I think that the court would require a
22 further joint order or stipulation.

23 In other words, I don't want to turn those over
24 if a remittitur comes down, regardless of what it is, or some
25 clerk turns them over without knowing whether or not they
26 might be further needed.

27 MR. HERTZBERG: We agree to that right now.

28 MR. FLYNN: That would be agreeable.

1 THE COURT: Just by stipulation of the parties, it can
2 be released at that time.

3 MR. HELLER: Your Honor, for what little I can give,
4 this insight was accurate.

5 This was an issue that was discussed at length
6 between the parties when negotiations were going on.

7 MR. FLYNN: It is apparently contemplated in
8 paragraph 3 of the proposed order, Your Honor.

9 THE COURT: Well, this implies that immediately when
10 they are returned that they be immediately turned over to
11 the Church without any further --

12 MR. FLYNN: That is agreeable.

13 MR. HERTZBERG: That is agreeable.

14 MR. FLYNN: To Mr. Armstrong.

15 MR. HERTZBERG: This is part of this rather complex
16 process that we have all agreed on.

17 THE COURT: What is this -- under this stipulated
18 sealing order paragraph 2 provides that the entire remaining
19 records of this case, save only this order, the order of
20 dismissal of the case, and then the order necessary to
21 effectuate this order and the order of dismissal, are agreed
22 to be placed under seal of the court.

23 What is it that you have in mind, the file
24 itself?

25 MR. HERTZBERG: Yes, Your Honor. That is the procedure
26 that the Church has insisted on and all courts have agreed to
27 in various other Scientology cases involving Mr. Flynn and
28 others which have been settled.

1 MR. FLYNN: We settled, Your Honor, several cases in
2 the federal district court in Tampa, Florida and recently six
3 cases in the federal district court in Los Angeles.

4 THE COURT: I just want to know what is contemplated so
5 the clerk won't be running around and --

6 MR. FLYNN: I'd say the entire record, I mean the
7 court file.

8 THE COURT: There was a reporter's transcript. There
9 was an original and copies prepared.

10 Of course, those went to the court of appeal.

11 MR. FLYNN: Whatever is in the physical possession of
12 the court --

13 THE COURT: I guess we are talking just basically this
14 multiple set of files will be placed under some kind of seal.

15 MR. HERTZBERG: Your Honor, presumably any materials
16 that come from the court of appeal would then be integrated
17 under that seal.

18 THE COURT: Yes. That would be so understood.

19 Of course, there have been innumerable people in
20 the interim who have come forward and examined the file. I
21 haven't the slightest idea who all those people are, but
22 certainly we can't go back and retract from them whatever they
23 have seen or observed or copied.

24 MR. HERTZBERG: We understand, Your Honor.

25 THE COURT: All right. Then, the court will sign the
26 respective orders.

27 Is that all?

28 MR. FLYNN: Thank you, Your Honor.

1 THE COURT: I guess we should vacate the trial date.

2 Any other motions?

3 MS. DRAGOJEVIC: Mandatory settlement conference.

4 MR. FLYNN: I am sure Your Honor is very sorry to hear
5 all this.

6 THE COURT: We wish you all good luck in the future.

7 You are all welcome to come back and try more
8 cases. Some other subject, perhaps.

9 MR. FLYNN: Being from Boston, I'd like to personally
10 thank you for all your courtesies in the court.

11 THE COURT: Well, we aim to please.

12 MR. HERTZBERG: I don't want to be overly inquisitive,
13 but has Your Honor signed the order dismissing the case?

14 THE COURT: I signed whatever orders were submitted.
15 Includes a dismissal.

16 MR. PETERSON: We will verify with the clerk and get a
17 conformed copy.

18 THE CLERK: Do you have originals of these?

19 MR. HELLER: I think those are all originals.

20 THE CLERK: Originals, but they are copies of documents.

21 MR. PETERSON: I think the problem, some of them were
22 signed in counterpart.

23 MR. HELLER: We tried to get all signatures on one
24 because one of them has five or six signatures.

25 THE COURT: Why don't you look over what is there?

26 MR. PETERSON: I think we can work it out with the clerk,
27 any problems with original versus copy, and take care of it.

28 (At 4:17 p.m. the proceedings were adjourned.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 57 HON. PAUL G. BRECKENRIDGE, JR., JUDGE

GERALD ARMSTRONG,
Cross-Complainant,
vs.
CHURCH OF SCIEN TOLOGY OF
CALIFORNIA,
Cross-Defendant.

No. C 420 153
REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

I, NANCY L. HARRIS, Official Reporter of the
Superior Court of the State of California, for the County of
Los Angeles, do hereby certify that the foregoing pages,
1 to 8, inclusive, comprise a true and correct transcript
of the proceedings held in the above-entitled matter on
December 11, 1986.

Dated this 16th day of December, 1986.

_____, CSR No. 644
Official Reporter

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56

HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF
CALIFORNIA,

PLAINTIFF,

VS.

GERALD ARMSTRONG,

DEFENDANT.

CASE NO. C 420 153

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, DECEMBER 23, 1991

APPEARANCES:

(SEE APPEARANCE PAGE.)

COPY

HERBERT CANNON, CSR NO. 1923
OFFICIAL REPORTER

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1 APPEARANCES:

2 FOR THE PLAINTIFF:

MICHAEL LEE HERTZBERG, ESQ.
740 BROADWAY, FIFTH FLOOR
NEW YORK, NEW YORK 10009

3
4 WILLIAM T. DRESCHER, ESQ.
23679 CALABASAS ROAD
5 SUITE 388
6 CALABASAS, CA. 91302

7
8 FOR THE DEFENDANT:

TOBY PLEVIN, ESQ.
10700 SANTA MONICA BLVD.
9 SUITE 4-300
10 LOS ANGELES, CA. 90025

11 JOSEPH A. YANNY, ESQ.
12 1925 CENTURY BOULEVARD
13 SUITE 1260
14 LOS ANGELES, CA. 90067

1 LOS ANGELES, CALIFORNIA; MONDAY, DECEMBER 23, 1991; 10:30 A.M.

2 DEPARTMENT NO. 56

HON. BRUCE R. GEERNAERT, JUDGE

3 APPEARANCES: (SEE TITLE PAGE.)

4 (HERBERT CANNON, OFFICIAL REPORTER.)

5
6 THE COURT: THE CHURCH OF SCIENTOLOGY VERSUS ARMSTRONG.

7 STATE YOUR APPEARANCES, PLEASE.

8 MR. HERTZBERG: MICHAEL LEE HERTZBERG, H-E-R-T-Z-B-E-R-G,
9 FOR THE MOVING PARTY, YOUR HONOR.

10 MR. DRESCHER: WILLIAM DRESCHER, D-R-E-S-C-H-E-R, ALSO
11 ON BEHALF OF THE MOVING PARTY, YOUR HONOR.

12 MS. PLEVIN: TOBY L. PLEVIN FOR GERALD ARMSTRONG, YOUR
13 HONOR.

14 MR. YANNY: JOSEPH YANNY, INTERVENOR OR PROPOSED
15 INTERVENOR.

16 JUST AS A MATTER OF COURTESY, MR. HERTZBERG
17 DROPPED THAT IN THE AISLEWAY.

18 MR. HERTZBERG: IT WAS A PIECE OF PAPER THAT WAS THROWN
19 AT ME.

20 I AM CONCENTRATING ON THIS ORAL ARGUMENT, YOUR
21 HONOR. THIS IS NOT --

22 THE COURT: DO YOU KNOW WHAT IT IS?

23 MR. HERTZBERG: NO, YOUR HONOR.

24 I DO KNOW WHEN I WENT TO READ THE CALENDAR ON
25 THE HALLWAY A GENTLEMAN APPROACHED ME AND SAID HE HAD SOME-
26 THING FOR ME.

27 MR. YANNY: IT IS A DEPOSITION SUBPOENA, YOUR HONOR.

28 MR. HERTZBERG: LET ME FINISH.

1 I HAVE LOOKED AT THE CALENDAR --

2 THE COURT: THIS IS A MATTER IN WHICH WE HAVE GOT
3 PLENTY TO DO. AND I DON'T HAVE TIME TO BE RECORDING THINGS
4 LIKE THAT.

5 NOW, WE HAVE TWO MOTIONS HERE THIS MORNING.

6 ONE IS A MOTION OF PLAINTIFF AND CROSS-
7 DEFENDANT TO ENFORCE SETTLEMENT AGREEMENT FOR LIQUIDATED
8 DAMAGES AND TO ENJOIN FUTURE VIOLATIONS AND THE OTHER IS A
9 MOTION BY YANNY FOR LEAVE TO INTERVENE IN THIS ACTION.

10 MR. YANNY: AND FOR ACCESS TO THE FILES, YOUR HONOR.

11 THE COURT: ALL RIGHT. NOW, I THINK IT MIGHT BE HELP-
12 FUL, HAVING READ THROUGH THIS, I THINK I -- WHAT I WOULD
13 LIKE TO DO IS MAKE A GENERAL STATEMENT THAT RELATES TO BOTH
14 OF THESE MOTIONS AND RELATES TO THIS CASE AND THE STATUS OF
15 IT AT THIS TIME. BUT THESE ARE GENERAL COMMENTS WHICH ARE
16 NOT DISPOSITIVE HERE AT ALL.

17 I THINK WE NEED TO GET THE OVERALL STRUCTURE
18 OF WHERE WE ARE BECAUSE THIS IS NOT UNIQUE TO BE IN THIS
19 SITUATION WHERE YOU HAVE A SETTLEMENT AND THEN YOU HAVE
20 LATER PROCEEDINGS COMING UP. SO LET ME SAY THAT IN MY
21 EXPERIENCE THE FOLLOWING CIRCUMSTANCES ALSO PREVAIL, THAT
22 IS, YOU HAVE A CONTRACT ENTERED INTO BY PARTIES. I AM
23 GOING TO BE REAL BASIC; NOT QUITE HOW YOU CREATE A CONTRACT,
24 BUT I GUESS -- AND I AM NOT GOING TO DO THIS OFTEN, I HOPE,
25 BUT I AM REMINDED OF A STORY WHEN I WAS A YOUNG LAWYER,
26 JUSTICE PETERS WAS ON THE SUPREME COURT; BECAUSE HE WAS ONE
27 TO ALWAYS GET RIGHT DOWN TO BASICS, A LAWYER APPEARED AND
28 SAID, "THIS IS A CASE INVOLVING A CONTRACT. AND YOU KNOW,

1 JUSTICES, A CONTRACT IS FORMED BY AN OFFER AND ACCEPTANCE."
2 AND EITHER JUSTICE PETERS OR SOMEBODY ELSE INTERRUPTED AND
3 SAID, "JUST A MINUTE. YOU CAN ASSUME THAT WE UNDERSTAND
4 THE LAW OF CONTRACTS."

5 AND HE SAID, "WELL, THAT IS THE MISTAKE I MADE
6 LAST TIME."

7 NOW, THAT IS EITHER A TRUE STORY OR ONE THAT
8 JUSTICE PETERS THOUGHT MADE A POINT. AND I AM NOT GOING
9 QUITE THAT FAR, BUT HERE IS THE SITUATION: UNDER THE LAW
10 PARTIES CAN ENTER INTO CONTRACTS. AND THEY ARE CONTRACTS.
11 THEY ARE NOT ORDERS OF COURT. SOME CONTRACTS FALL UNDER
12 664.4 WHICH SAYS, "THE PARTIES TO PENDING LITIGATION
13 STIPULATE IN WRITING OR ORALLY BEFORE THE COURT FOR SETTLE-
14 MENT OF THE CASE OR PART THEREOF THE COURT, UPON MOTION,
15 MAY ENTER JUDGMENT PURSUANT TO THE TERMS OF THE SETTLEMENT."

16 NOW, THE CASES UNDER THAT CODE SECTION GENERALLY
17 RELATE TO THE AGREEMENT HAVING BEEN MADE EITHER WITH OR
18 WITHOUT SUPERVISION OF THE COURT. AND THEN SOMEBODY ISN'T
19 PAYING THE MONEY OR SOMEBODY IS PAYING THE MONEY AND THEY
20 WON'T GIVE A DISMISSAL AND IT IS TO NOT ENFORCE, BUT TO
21 REQUIRE PERFORMANCE OF IT; IN OTHER WORDS, TO CONSUMMATE
22 THE SETTLEMENT. BUT THE CODE SECTION IS BROADER THAN THAT.
23 AND THAT GETS US INTO THESE KINDS OF SITUATIONS.

24 SOMETIMES A CONTRACT IS ENTERED INTO BY PARTIES
25 WITHOUT THE SUPERVISION OF THE COURT; IN OTHER WORDS, THEY
26 SIT AROUND IN AN OFFICE OR HOTEL ROOM OR SOMEPLACE AND SAY
27 IF YOU WILL AGREE TO THIS, I WILL AGREE TO THAT. BUT I WILL
28 ONLY AGREE TO THAT IF YOU AGREE TO THIS.

1 AND THEY DO UP A CONTRACT AND IT HAS CERTAIN
2 PROVISIONS WHICH REQUIRE PARTIES TO DO THINGS, MAYBE TO
3 CONSULT, TO CONSUMMATE THE SETTLEMENT, BUT IN SOME CASES,
4 TO LAST FOR EVER. AND THEY PUT AT THE END OF THE CONTRACT
5 TWO LITTLE WORDS, "SO ORDERED." AND THEY BRING THAT TO A
6 JUDGE.

7 NOW, JUDGES, IN MY EXPERIENCE, ARE VERY
8 CONCERNED ABOUT THIS BECAUSE IT GETS TRICKY. IN OTHER WORDS,
9 WHEN YOU SAY "SO ORDERED," ARE YOU ORDERING WHAT THEY AGREE
10 TO, OR ARE YOU ORDERING SOME PART OF THE AGREEMENT WHICH
11 SAYS IT IS TO BE AN ORDER? IT IS UNFAIR A LOT OF TIMES.

12 SO THE COURT HAS ONE OR TWO WAYS TO GO; I
13 WOULD DO IT OR NOT DO IT AND SAY I'LL ONLY DO IT AFTER WE
14 GO THROUGH THE AGREEMENT AND I MAKE SURE THAT THE PROVISIONS
15 THERE THAT YOU INTEND TO BE IN ORDER ARE ORDERS THAT I AM
16 WILLING TO MAKE BECAUSE COURTS ARE CONSTRAINED NOT TO MAKE
17 ORDERS THAT ARE AMBIGUOUS OR UNCERTAIN OR THAT REQUIRE AN
18 UNDUE AMOUNT OF COURT SUPERVISION.

19 YOU KNOW, WE GET INTO THAT WHEN WE ARE SITTING
20 IN WRITS AND RECEIVERS. YOU CAN'T ISSUE EVERY ORDER SOMEBODY
21 WANTS YOU TO ISSUE OR YOU ARE GOING TO BE RUNNING PEOPLE'S
22 BUSINESSES; YOU'LL BE TAKING CARE OF THEIR HEDGES BETWEEN
23 THEIR HOUSES; SO ORDERED.

24 SURE, A SETTLEMENT GETS DONE, BUT THE
25 SITUATION FROM THERE ON IS A LITTLE UNCLEAR.

26 NOW, AS MORE CLOSELY RELATED HERE, SOMETIMES
27 CONTRACTS CALL FOR CONFIDENTIALITY.

28 NOW, IF A CONTRACT PROVIDES THAT IT WILL BE

1 MAINTAINED IN CONFIDENCE BY THE PARTIES, ENFORCEMENT OFTEN-
2 TIMES BECOMES A PROBLEM WHETHER OR NOT IT IS SO ORDERED.
3 AND, AGAIN, COURTS ARE CAREFUL HERE FOR THE SAME REASONS.
4 YOU CAN HAVE AN AMBIGUITY; WHAT DOES CONFIDENTIALITY MEAN?
5 TO WHAT EXTENT IS THE COURT GOING TO BE INVOLVED IN SUPER-
6 VISION?

7 AND YOU ALSO HAVE PUBLIC POLICY AS TO PARTIES
8 THAT AREN'T THERE WHEN THEY MAKE THE AGREEMENT AND AREN'T
9 THERE WHEN THE COURT MAKES ITS ORDER, OBVIOUSLY, AREN'T
10 BOUND BY THE AGREEMENT AND SHOULDN'T BE BOUND BY THE COURT'S
11 ORDER IF WE ARE GOING TO HAVE DUE PROCESS.

12 IN OTHER WORDS, PEOPLE THAT AREN'T THERE
13 CAN'T BE BOUND IF THEY DON'T HAVE NOTICE.

14 SO NORMALLY, IN MY EXPERIENCE, AT LEAST, A
15 COURT WILL ORDER A MATTER CONFIDENTIAL ONLY UNTIL FURTHER
16 ORDER OF THE COURT UPON APPLICATION BY ANY LEGITIMATELY
17 INTERESTED THIRD PARTY THAT ISN'T A PARTY AT THE TIME THE
18 ORDER IS MADE BECAUSE THAT IS REQUIRED BY DUE PROCESS.

19 OFTENTIMES THERE ARE A LOT OF PEOPLE THAT
20 AREN'T THERE THAT HAVE A LEGITIMATE INTEREST IN WHETHER OR
21 NOT THE SPECIFIC MATERIAL WILL CONTINUE TO BE EXCLUDED FROM
22 THEIR KNOWLEDGE; THEREFORE, IN THE NORMAL CIRCUMSTANCE ONCE
23 AN ORDER IS MADE SEALING A FILE OR REQUIRING THE PARTIES
24 TO MAINTAIN MATTERS IN CONFIDENCE, IT IS SUBJECT TO A LATER
25 REVIEW BY THE COURT AT THE BEHEST OF SOME LEGITIMATELY
26 INTERESTED THIRD PARTY WHICH COULD INCLUDE THE PUBLIC MEDIA,
27 A LATER LITIGATION WITH EITHER OF THE PARTIES OR LATER
28 LITIGATION BETWEEN TWO OTHER PARTIES WHERE THE INFORMATION

1 IS IMPORTANT TO KNOW. AND YOU CAN REALLY GO ON AD INFINITUM
2 AS TO THE NUMBER OF PEOPLE AND THE CATEGORY OF PEOPLE THAT
3 WOULD HAVE A LEGITIMATE INTEREST IN AT LEAST HAVING A COURT
4 HEAR THEM AS TO WHETHER OR NOT THE "SO ORDERED," THE CONFIDENTIALITY SHOULD BE MAINTAINED.

6 NOW, THAT IS WHY WHEN I READ IT, AND YOU HAVE
7 CITED IT AGAIN, THE PORTION OF THE OPINION BY THE DIVISION
8 III OF THE SECOND DISTRICT COURT OF APPEAL IN THIS CASE OF
9 JULY 29, 1991 WHERE IT SAYS, "IN OUR CASE CORYDON INTERVENED
10 IN THE ACTION BETWEEN PLAINTIFF AND ARMSTRONG SEEKING
11 ACCESS TO THE FIELD RECORD FOR THE LIMITED PURPOSE OF
12 PREPARING HIS OWN CASES INVOLVING THE CHURCH, JUDGE GEERNAERT
13 ON HIS OWN MOTION VACATED JUDGE BRECKENRIDGE'S ORDER SEALING
14 THE RECORD."

15 AND THIS IS THE COMMENT THAT I HAVE TROUBLE
16 UNDERSTANDING THE SIGNIFICANCE OF.

17 " ... THE TIME HAD LONG SINCE
18 EXPIRED FOR RECONSIDERATION OF JUDGE BRECKENRIDGE'S
19 ORDER, CIVIL CODE SECTION 1008, OR RELIEF THEREFROM
20 PURSUANT TO CCP 437."

21 NOW, I'LL STOP THERE. OBVIOUSLY THE PARTIES
22 WOULD BE BARRED UNDER 437. BUT WOULD ANOTHER LEGITIMATELY
23 INTERESTED PARTY BE PRECLUDED FROM GOING TO JUDGE BRECKEN-
24 RIDGE IF HE WAS SITTING ON THE JUDGE AND SEEKING A CHANGE
25 IN HIS ORDER THAT WAS ENTERED INTO WITHOUT ANY HEARING AND
26 WITHOUT ANY NOTICE TO THIS THIRD PARTY? I DOUBT IT.

27 AND THE REASON I'M RAISING THIS IS THE MOVING
28 PARTIES SAY THAT THIS LITTLE PARAGRAPH IS THE BASIS FOR ME

1 TO PROCEED BASED ON JUDGE BRECKENRIDGE'S ORDERS, AND THAT
2 IS IN QUOTES.

3 NOW, I AM GIVING YOU THIS FOR BACKGROUND SO
4 THAT YOU UNDERSTAND WHERE I AM COMING FROM.

5 I GET THIS FILE BECAUSE I AM STILL SITTING.
6 IT IS MY NUMBER.

7 JUDGE BRECKENRIDGE IS NOW RETIRED AND HE CAN'T
8 DO IT. AND I FEEL THAT IF I HAD MADE THE ORDER I WOULD WANT
9 TO BE IN THE POSITION TO ANALYZE IT, WHETHER OR NOT THAT
10 ORDER THAT WAS MADE FOR THE PARTIES SHOULD NOW BE ENFORCED
11 AS AGAINST ANY LEGIMATELY INTERESTED THIRD PARTY. AND I
12 THINK THAT IS THE SCOPE OF MY JURISDICTION; EVEN THOUGH IT
13 COULD BE READ AS BEING CONTRARY TO THE PARTICULAR PARAGRAPH
14 THAT I HAVE COMMENCED READING AND WHICH IS REFERRED TO BY
15 THE MOVING PARTY.

16 THE REASON I HAVE GONE INTO THIS IS I WANT
17 ANYBODY REVIEWING THIS TO UNDERSTAND THE BASIS FOR ME ENTER-
18 TAINING THIS MOTION AND SOME OF THE REASONING.

19 NOW, WE NOW HAVE ANOTHER THIRD PARTY COMING
20 IN, WHETHER OR NOT LEGITIMATELY INTERESTED REMAINS TO BE
21 SEEN, BY THE NAME OF MR. YANNY. AND HE IS SEEKING ANOTHER
22 LITTLE BIT OF NON-CONFIDENTIALITY.

23 WHAT HAPPENS IS WHEN ONE PARTY COMES IN --
24 AND THIS HAPPENED IN CORYDON; CORYDON CAME IN AND SAID
25 WE WANT TO SEE THESE FILES BECAUSE THEY ARE ESSENTIAL TO OUR
26 LITIGATION. AND THAT WAS DETERMINED TO BE VALID.

27 BUT THEN WE GOT TO THE POINT, HOW DO WE KEEP
28 TRACK OF THIS LITTLE BIT OF CONFIDENTIALITY?

1 IN OTHER WORDS, CORYDON CAN GET IT; CORYDON'S
2 COUNSEL CAN GET IT; COUNSEL'S COUNSEL CAN GET IT; CORYDON'S
3 COUNSEL'S EXPERT CAN GET IT; CORYDON'S FAMILY CAN GET IT;
4 CORYDON CAN OFFER IT IN EVIDENCE IN THE TRIAL. BUT ALL OF
5 THESE PEOPLE ARE SUPPOSED TO MAINTAIN IT IN CONFIDENCE.

6 IN MY EXPERIENCE, THAT IS THE KIND OF ORDER
7 THAT I WOULD NOT ISSUE BECAUSE IT INVOLVES TOTAL AMBIGUITY
8 AND JUST WHEN IS SOMEBODY VIOLATING IT?

9 AND IT IS AN INVITATION FOR ENDLESS COURT
10 SUPERVISION OF AN ALMOST UNSUPERVISORABLE SITUATION BECAUSE
11 ONCE YOU MAKE SOMETHING UNCONFIDENTIAL, ONCE YOU UNSEAL A
12 FILE, THEN IT IS OUT IN THE PUBLIC AND THOSE PEOPLE ARE
13 ALLOWED TO USE IT AND TO DISCLOSE IT TO OTHER PEOPLE. AND
14 THOSE OTHER PEOPLE MAKE USE IT OR DISCLOSE IT TO OTHER
15 PEOPLE AND THEN YOU REALLY BREAK THE BARRIER OF THE SEAL.
16 YOU REALLY BREAK THE BARRIER OF IT BEING CONFIDENTIAL FROM
17 A PRACTICAL STANDPOINT.

18 AND A JUDGE SITTING IN WRITS AND RECEIVERS
19 WOULD NEVER ISSUE THAT KIND OF ORDER IN MY OPINION BECAUSE
20 THEY WOULD BE ENGAGING IN AN ACTIVITY WHICH WOULD NEVER END
21 AND COULD NEVER BE SATISFACTORILY PERFORMED BECAUSE THERE
22 WILL BE PEOPLE COMING IN AND SAY, WELL, I GOT THIS, BUT I
23 GOT IT FROM MR. X. AND THEN YOU WOULD HAVE TO FIND OUT WHERE
24 X GOT IT. AND X GOT IT FROM Y. AND MAYBE Y GOT IT FROM
25 MR. CORYDON.

26 SO I DETERMINED IN RESPONSE TO THE MOTION --
27 AND IT WAS RELIEF BEYOND WHAT WAS ASKED FOR, BUT IT WAS THE
28 ONLY PRACTICAL RELIEF THAT I THOUGHT COULD BE GIVEN.

1 NOW, THE APPELLATE COURT HAS FASHIONED A MORE
2 LIMITED RELIEF. AND I THINK THIS PROCEEDING, BOTH BY
3 MR. -- THE RESPONSE BY MR. ARMSTRONG AND THE OVERTURE BY
4 MR. YANNY REFERRING TO ALL OF THESE DOCUMENTS THAT ARE
5 SUPPOSEDLY CONFIDENTIAL IS AN OUTGROWTH OF THE SUPPOSED
6 LITTLE BIT OF UNCONFIDENTIALITY THAT WAS ISSUED BY THE
7 DIVISION III.

8 SO IF WE HAVE NOW A LITTLE BIT MORE OF UNCON-
9 FIDENTIALITY, YOU EVENTUALLY GET TO WHERE TWO OR THREE
10 LITTLE BITS IS IN EFFECT 100 PERCENT OF UNCONFIDENTIALITY.

11 THIS IS ALL BACKGROUND. AND WE ARE NOW GOING
12 TO GET TO THE MOTIONS. AND THE MOTIONS ARE A LITTLE BIT
13 EASIER ONCE YOU GET TO THE MERITS OF THEM BECAUSE THE FIRST
14 MOTION RELATES TO THIS ORDER OF JUDGE BRECKENRIDGE OF
15 DECEMBER 11, 1986 WHEREIN HE WAS GIVEN A STIPULATED SEALING
16 ORDER. THAT IS THE TITLE OF IT. AND THERE ARE FOUR
17 PARAGRAPHS. AND EACH OF THEM RELATES TO WHAT THE PARTIES
18 HAVE AGREED TO.

19 ONE OF THE AGREEMENTS IS, "IT IS AGREED
20 BETWEEN THE PARTIES THAT SHOULD THE COURT REQUIRE A MOTION
21 FOR ANY FURTHER PLEADING TO EFFECTUATE AND SIGN THIS
22 STIPULATED SEALING ORDER, THE PARTIES WILL JOINTLY COMPLY
23 WITH THE COURT'S FURTHER ORDERS, IF ANY."

24 I UNDERSTAND THAT THERE WERE NONE.

25 THE SECOND PARAGRAPH IS, "THE ENTIRE REMAINING
26 RECORD OF THIS CASE SAVE ONLY THIS ORDER, THE ORDER OF
27 DISMISSAL OF GOOD FAITH AND ANY ORDERS NECESSARY TO EFFEC-
28 TUATE THIS ORDER AND THE ORDER OF DISMISSAL ARE AGREED TO

26 NOW, BASICALLY, BEFORE WE GET TO THE MERITS
27 OF THE MOTION -- AND I'LL JUST SAY THAT IT APPEARS THAT
28 THERE IS NO CONTEST THAT THE ACTS CHARGED WERE COMMITTED BY

1 MR. ARMSTRONG. IN THE RESPONSE THERE IS NO CONTEST ON THAT.
2 BUT THERE IS A QUESTION AS TO THE COURT'S AUTHORITY TO ISSUE
3 IN EFFECT AN INJUNCTION ENFORCING AN AGREEMENT AND TO AWARD
4 ARTIFICIAL DAMAGES AS AGREED TO IN THE AGREEMENT.

5 IN MY EXPERIENCE ALSO COURTS ARE LOATHE TO
6 ISSUE INJUNCTIONS ENFORCING CONTRACTS UNLESS THERE ARE A
7 LOT OF FACTORS SHOWN. AND THAT IS A WEIGHING PROCESS.

8 THERE IS A QUESTION WHETHER OR NOT UNDER
9 664.6 I EVEN HAVE JURISDICTION TO DO IT. I THINK THAT
10 TECHNICALLY SINCE THERE WAS AN AGREEMENT IN WRITING THAT
11 SETTLED A CASE OR A PART THEREOF THERE IS JURISDICTION.
12 BUT I BELIEVE THAT IN VIEW OF THE WAY THIS ALL EVOLVED, YOU
13 KNOW, IN A HOTEL ROOM RATHER THAN A COURTROOM, THAT IT WOULD
14 BE ENCUMBENT UPON ME WERE I TO ISSUE INJUNCTIVE RELIEF TO
15 HAVE A HEARING AS EXTENSIVE AS I WOULD HAVE IF THIS CAME
16 INTO A WRITS AND RECEIVERS DEPARTMENT WHEREIN SOMEONE HAD
17 ENTERED INTO AN AGREEMENT AND THEY WANTED AN INJUNCTION
18 BASED UPON THAT AGREEMENT.

19 AND THAT INVOLVES ALL OF THE ISSUES THAT ARE
20 INVOLVED WHEN INJUNCTIONS ARE TO BE ISSUED, INCLUDING THE
21 CIRCUMSTANCES INVOLVED IN ENTERING INTO THE AGREEMENT, THE
22 EQUITABLE CONCEPT OF UNCLEAN HANDS, THE PUBLIC POLICY
23 CONCERNING ANY OF THE PROVISIONS SOUGHT TO BE ENFORCED.
24 THESE ARE ALL ARGUED ABOUT IN YOUR PAPERS. BUT I THINK THAT
25 YOU ARE ALL ASSUMING THAT I KNOW MORE THAN I DO REALLY KNOW
26 FROM AN EVIDENTIARY STANDPOINT.

27 SO MY TENTATIVE RULING IS TO SET THIS FOR AN
28 EVIDENTIARY HEARING AND DETERMINE THIS ON ITS MERITS.

1 I REALLY CAN'T DETERMINE IT FROM THE ARGUMENTS
2 SUBMITTED SO FAR.

3 AS FAR AS THE GRANTING OF AN ORDER OR JUDGMENT
4 ASSESSING \$100,000 IN DAMAGES PURSUANT TO THE \$50,000 DAMAGE
5 PROVISIONS, I ALSO THINK THAT SHOULD BE THE SUBJECT OF A
6 HEARING BECAUSE FROM WHAT I CAN TELL THE SPECIFIC CONDUCT
7 WHICH IS CHARGED, ACTING AS A PARALEGAL FOR MR. YANNY IN THE
8 AZNARAN VS. CHURCH --

9 MR. YANNY: EXCUSE ME. AND DECLARATION OF MR. YANNY
10 IN THE CHURCH OF SCIENTOLOGY VS. YANNY IN OPPOSITION TO A
11 RESTRAINING ORDER THAT THEY SOUGHT.

12 THE COURT: AND, THIRD, HELPING FORD GREENE AS A
13 PARALEGAL, WHICH IS, EVIDENTALLY, STILL GOING ON IN
14 CONNECTION WITH THE SERVICES THAT MR. GREENE IS PROVIDING
15 TO THE PLAINTIFF AZNARAN.

16 AND, FOURTH, THE DECLARATION OF AUGUST 26,
17 1991 OF ARMSTRONG FOR AZNARAN.

18 THOSE ARE BREACHES OF THE LANGUAGE OF THE
19 AGREEMENT WHICH IS VERY BROAD AND UNCLEAR IN SOME RESPECTS
20 AND SPECIFICALLY WHEN YOU ARE TRYING TO ENFORCE IT BY WAY
21 OF THIS KIND OF PROVISION.

22 BUT TO READ THE WHOLE AGREEMENT, YOU COME UP
23 WITH A WONDERMENT AS TO WHAT WAS MUTUAL ABOUT IT; IN OTHER
24 WORDS, IT STARTS OUT BY SAYING, "THIS MUTUAL RELEASE OF ALL
25 CLAIMS ... " BUT ALL THE RELEASES ARE BY ARMSTRONG.

26 AND YOU ALSO WONDER TO WHAT EXTENT OFFERING
27 ASSISTANCE IS A TERM THAT IN EFFECT WOULD BE, IF ORDERED --
28 WOULD BE A TERM THAT ANY COURT WOULD PUT IN ITS ORDER.

1 THE AGREEMENT ITSELF, INCIDENTALLY, WAS NOT
2 SUBMITTED TO JUDGE BRECKENRIDGE WITH A LITTLE "SO ORDERED"
3 AT THE BOTTOM. AND I DON'T BELIEVE THE AGREEMENT, THE
4 PERFORMANCE OF THE AGREEMENT TO THIS DATE HAVE EVER BEEN
5 ORDERED PERFORMED.

6 SO YOU ARE NOW SEEKING THIS COURT TO IN EFFECT
7 SAY "SO ORDERED" AND, MORE SPECIFICALLY, TO SPECIFICALLY
8 ENJOIN CERTAIN CONDUCT BASED UPON THE AGREEMENT.

9 THAT REALLY REQUIRES A JUDICIAL PROCEEDING,
10 NOT THE ONE ON THE TAPE.

11 NOW, THAT BEING THE CASE, WE TURN QUICKLY TO
12 MR. YANNY BECAUSE IT IS NOON. AND MR. YANNY HAS NOT FILED
13 A COMPLAINT IN INTERVENTION.

14 DO YOU WANT TO ARGUE THIS FIRST?

15 MR. HERTZBERG: THESE ARE TWO SEPARATE MATTERS, YOUR
16 HONOR.

17 THE COURT: I JUST WANTED TO GIVE YOU WHERE I AM GOING
18 BECAUSE I DON'T THINK, TECHNICALLY, MR. YANNY IS SEEKING ANY
19 RELIEF AGAINST EITHER OF THE PARTIES. WHAT I THINK HE IS
20 DOING IS SEEKING AN OPPORTUNITY TO BE HEARD IN CONNECTION
21 WITH JUDGE BRECKENRIDGE'S ORDER ORDERING THE FILE SEALED.
22 AND UNDER MY VIEW, THAT IS NOT INTERVENING IN THE ACTION. IT
23 COULD BE THE L.A. TIMES OR THE SAN DIEGO PRESS TELEGRAM,
24 IF THAT IS THE RIGHT NAME; IT COULD BE ANY LEGITIMATELY
25 INTERESTED PARTY AND THEY WOULDN'T HAVE TO INTERVENE IN THE
26 ACTION. THEY COULD JUST SIMPLY SEEK BY WAY OF ANY REASONABLE
27 NOTICE OR MOTION A RELAXATION OR VACATION OF THE HEALING
28 ORDER.

1 SO BASICALLY I DON'T THINK IT IS THAT SIGNI-
2 FICANT WHETHER HE IS ALLOWED TO, QUOTE, INTERVENE OR NOT.
3 I AM GOING TO HEAR FROM ANYBODY THAT WANTS TO -- I THINK
4 I'M REQUIRED TO.

5 THE THIRD DISTRICT COMMENT SAID THAT TIME HAS
6 RUN. TIME HAS RUN UNDER 473 FOR THE PARTIES TO DO IT, BUT
7 I DON'T THINK IT HAS RUN FOR THIRD PARTIES THAT WEREN'T EVEN
8 PARTIES THEN SUCH AS CORYDON OR YANNY OR ANYONE ELSE,
9 INCLUDING THE MEDIA TO SEEK THAT FILE TO BE UNSEALED EITHER
10 TOTALLY OR PARTIALLY. AND THAT IS WHAT IS NOW BEING SOUGHT
11 AND THEREFORE I DON'T KNOW WHETHER IT IS CALLED AN INTERVEN-
12 TION.

13 BUT HE IS, CERTAINLY, ENTITLED TO SEEK AN
14 ALTERATION OF THE COURT'S ORDER SEALING THE FILE AND THERE-
15 FORE I DON'T THINK IT IS A REAL MOTION.

16 I THINK HE CAN JUST DO IT. HE IS A MEMBER OF
17 THE PUBLIC AND HE IS ENTITLED TO BE HEARD.

18 MR. YANNY: JUST FOR THE RECORD, THE OPINION OF THE
19 COURT OF APPEAL ITSELF USES THE LANGUAGE THAT CORYDON
20 INTERVENED IN THE OPINION.

21 I WOULD NOTE FOR THE RECORD THAT CORYDON ALSO
22 FILED NO COMPLAINT.

23 THE COURT: THERE IS ANOTHER EXAMPLE. WE ARE JUST
24 TALKING ABOUT TECHNICALITIES.

25 MR. HERTZBERG: JUDGE, MAY I ADDRESS THE MOTION THAT
26 WAS THE PRIMARY MOTION IN FRONT OF THIS COURT?

27 AND UNLESS THE ANCILLARY AND WE WOULD VIEW
28 SUBSIDIARY SIDE SHOW OF THE YANNY MOTION WAS THE ONLY MOTION

1 BEFORE THIS COURT, THIS ACTION WAS, AND THE PROCEEDING
2 BEFORE YOUR HONOR WAS INITIATED BY OUR MOTION, ONE WE TAKE
3 VERY SERIOUSLY, TO ENFORCE THE SETTLEMENT AGREEMENT. AND
4 THAT IS BETWEEN THE MOVING PARTIES AND MR. ARMSTRONG,
5 SITTING OVER IN THE CORNER THERE.

6 AND I AM NOT GOING TO ADDRESS THE YANNY MATTER.
7 MR. DRESCHER WILL ADDRESS THAT. THAT IS A SEPARATE MATTER
8 INSOFAR AS THE COURT CONSTRUES IT AS A MOTION TO SEEK ACCESS
9 TO THE COURT FILES. WE CONSIDER IT STRICTLY SEPARATE AND
10 APART FROM THIS EXTREMELY SERIOUS MATTER OF THE ONGOING
11 BREACHES OF A SETTLEMENT AGREEMENT WHICH WAS BEFORE JUDGE
12 BRECKENRIDGE, NOT JUST ANY HOTEL ROOM, YOUR HONOR.

13 THE COURT: WE'LL GET BACK TO THAT. BUT WHAT I DIDN'T
14 QUITE SAY WAS THAT THE FOUR BREACHES THAT ARE ASSERTED AND,
15 EVIDENTLY, NOT DENIED AS CONDUCT IN ORDER TO DETERMINE
16 WHETHER OR NOT IT IS APPROPRIATE TO AWARD \$50,000 IN HOW
17 THEY ARE CHARACTERIZED AS TWO FOR EACH OR \$100,000; YOU
18 WOULD THEN HAVE TO GET INTO WHETHER OR NOT THOSE WERE
19 ARBITRARY PENALTIES OR WHETHER OR NOT THEY BARE SOME
20 REASONABLE RELATIONSHIP TO THE ACTUAL DAMAGE SUFFERED.

21 NOBODY HAS ARGUED THAT. I CAN'T TELL WHAT
22 MONETARY DAMAGES WOULD FLOW FROM THESE BREACHES THAT ARE NOW
23 ASSERTED. SO, AGAIN, WE NEED AN EVIDENTIARY HEARING IF WE
24 ARE GOING TO HAVE A COURT ORDER ON THESE SUBJECTS.

25 MR. HERTZBERG: MAY I ADDRESS THIS BRIEFLY, YOUR HONOR?

26 THERE ARE CERTAIN THINGS YOUR HONOR HAS SAID.
27 WE HAVE WAITED FOR A CHANCE TO GIVE YOUR HONOR AN ORIENTATION.

28 THERE ARE SEVERAL THINGS YOUR HONOR HAS SAID

1 THAT I THINK EITHER MISPERCEIVE OR DON'T COMPLETELY COVER
2 THE SITUATION THAT IS BEFORE YOU TODAY.

3 THE COURT: IT IS SEVEN OR EIGHT MINUTES AFTER NOON.
4 WHY DON'T WE RESUME AT 2 O'CLOCK? BECAUSE I AM NOT ONLY
5 WILLING, BUT I AM ANXIOUS TO HEAR YOUR RESPONSE TO THIS
6 ANALYSIS. AND I DON'T THINK WE CAN GIVE IT JUSTICE AT THIS
7 TIME.

8 MS. PLEVIN: YOUR HONOR, WITH RESPECT TO THAT, THAT
9 WOULD BE VERY ACCEPTABLE AS FAR AS I AM CONCERNED ON BEHALF
10 OF MR. ARMSTRONG. WE'LL NEED AND REQUEST THIS TIME TO
11 ADDRESS THESE ISSUES: NUMBER ONE, PERHAPS IT IS ONLY FOR
12 THE RECORD, BUT I THINK IT IS IMPORTANT. I DON'T THINK
13 664.6 APPLIES IN THE CIRCUMSTANCE AT ALL. THERE WAS NO
14 JUDGMENT ENTERED. IT WAS A DISMISSAL. SO THE ISSUE AS TO
15 WHETHER THERE IS JURISDICTION MUST FLOW ONLY FROM 127(A)4.
16 664.6 WAS NEVER UTILIZED IN THIS MATTER AND THERE IS NO
17 JUDGMENT. THERE WAS NO ORDER DISMISSING THE ACTION AND THAT
18 IS NOT CONTEMPLATED AS A BASIS FOR CONTINUING JURISDICTION
19 UNDER 664.6.

20 MR. HERTZBERG: I THOUGHT I HAD THE FLOOR HERE, YOUR
21 HONOR.

22 THE COURT: THIS IS A PREVIEW OF WHAT WE'LL DO LATER.

23 BUT I THINK 664.6 CONTEMPLATES A DIFFERENT
24 KIND OF SITUATION WHERE IN EFFECT THE COURT IS ASKED TO
25 ENTER A JUDGMENT WHERE THE PARTIES HAVE AGREED UNDER CERTAIN
26 CIRCUMSTANCES A JUDGMENT WOULD FLOW FROM CONDUCT; THAT IS
27 WHY I AM SAYING THIS DOESN'T -- MAYBE YOUR ARGUMENT IS IF
28 THEY EVER HAVE A HEARING, IT SHOULD BE AFTER FILING A

1 COMPLAINT; IS THAT IT?

2 MS. PLEVIN: ESSENTIALLY, YOUR HONOR, OUR ARGUMENT IS
3 THERE IS NO CONTINUING JURISDICTION AT ALL.

4 THE COURT: I REMEMBER THAT ARGUMENT; EITHER I HAVE
5 NO JURISDICTION OR I HAVE SOME JURISDICTION THAT I WOULD
6 EXERCISE IN A JUDICIAL MANNER RATHER THAN AS A RUBBER STAMP.

7 MR. PLEVIN: IF WE GO FORWARD, YOUR HONOR, WE'LL NEED
8 ANCILLARY ASSISTANCE FROM THE COURT WITH RESPECT TO EVIDEN-
9 TIARY MATTERS THAT WE'LL NEED FOR THE HEARING THAT WE'LL
10 NEED ORDERED PRODUCED BY THE OTHER SIDE.

11 THE COURT: WE'LL RETURN HERE AT 2:30 AND WE'LL BE IN
12 RECESS UNTIL 2:30.

13
14 (AT 12:10 P.M. THE LUNCHEON RECESS WAS
15 TAKEN UNTIL 2:30 P.M. OF THE SAME DAY.)
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1 LOS ANGELES, CALIFORNIA; MONDAY, DECEMBER 23, 1991; 2:45 P.M.
2 DEPARTMENT NO. 56 HON. BRUCE R. GEERNAERT, JUDGE
3 (APPEARANCES AS HERETOFORE NOTED.)
4

5 THE COURT: WE'LL BE BACK ON THE RECORD IN THE CHURCH
6 OF SCIENTOLOGY VERSUS ARMSTRONG.

7 YOU MAY PROCEED.

8 MR. HERTZBERG: THANK YOU, YOUR HONOR.

9 I WANT TO ADDRESS YOUR OBSERVATIONS FROM THIS
10 MORNING.

11 FIRST I WANT TO JUST CLARIFY TWO MATTERS IN
12 TERMS OF THE ANALYSIS; ONE, I AM ADDRESSING SOLELY THE
13 ORIGINAL MOTION IN THIS COURT BROUGHT BY THE MOVING PARTIES
14 TO ENFORCE THE SETTLEMENT AGREEMENT AGAINST MR. ARMSTRONG.

15 THE COURT: THAT MOTION SEEKS TWO THINGS: IT SEEKS
16 AN INJUNCTION AND, IN EFFECT, TURNING THE AGREEMENT INTO A
17 COURT ORDER; RIGHT?

18 MR. HERTZBERG: I DON'T KNOW IF IT MEANS TURNING IT
19 INTO A COURT ORDER. IT MEANS EXERCISING THE JURISDICTION
20 WHICH THIS COURT RESERVED BY AN ORDER OF DECEMBER 11TH
21 OVER ENFORCEMENT OF THE SETTLEMENT AGREEMENT.

22 THE COURT: WHATEVER. I MEAN THE EFFECT WOULD BE A
23 COURT ORDER REQUIRING MR. ARMSTRONG NOT TO BREACH THE
24 AGREEMENT.

25 MR. HERTZBERG: CERTAIN PROVISIONS OF THE AGREEMENT;
26 ABSOLUTELY.

27 THE COURT: JUST CERTAIN ONES. AND ALSO IT SEEKS AS A
28 SECOND MATTER A MONEY DAMAGE AWARD EITHER BY WAY OF A

1 JUDGMENT OR VERDICT AS DAMAGES FOR BREACH.

2 MR. HERTZBERG: TO CLARIFY, THOSE TWO ARE NOT CO-
3 EXTENSIVE BECAUSE THE LIQUIDATED DAMAGES PROVISION OF THE
4 SETTLEMENT AGREEMENT COVERS CERTAIN KINDS OF BREACHES.
5 AND WE ARE TALKING IN OUR MOVING PAPERS ABOUT MULTIPLE
6 BREACHES ON MULTIPLE, ONGOING OCCASIONS. AND WE ARE ASKING
7 FOR LIQUIDATED DAMAGES ONLY IN TWO SPECIFIC INSTANCES, THOSE
8 BREACHES WHERE WE FOUND IT CAME WITHIN THE TERMS OF THE
9 CONTRACT IN WHICH LIQUIDATED DAMAGES COMES IN.

10 BUT QUITE INDEPENDENTLY FROM THAT, YOUR
11 HONOR -- AND THIS IS THE POINT I WANTED TO CLARIFY -- THERE
12 ARE BREACHES THAT ARE NOT COMPENSIBLE BY LIQUIDATED DAMAGES
13 THAT WE, NONETHELESS, FEEL THAT WE ARE NOW PRESENTLY
14 ENTITLED TO INJUNCTIVE RELIEF.

15 I WANTED TO ADDRESS YOUR TENTATIVE FROM THIS
16 MORNING IN WHICH YOU SUGGEST THERE ARE REASONS TO HOLD A
17 HEARING. I WOULD LIKE TO CONVINCE YOU, IF I CAN,
18 THAT THERE ARE NO SUCH REASONS.

19 LET'S START FROM THIS PROSPECTIVELY.

20 AS YOUR HONOR RECOGNIZED AND ARTICULATED
21 BETTER THAN I COULD THIS MORNING, THE FACTS ARE CONCEDED
22 HERE WITH RESPECT TO THE BREACHES. THAT IS TO SAY --

23 THE COURT: WHAT I SAID WAS IT IS NOT DISPUTED THAT
24 THE CONDUCT COMPLAINED OF WAS ENGAGED IN. THEY, OBVIOUSLY,
25 ASSERT, A VARIETY OF ASSERTIONS, AS TO WHY THOSE SHOULD NOT
26 BE DEEMED -- ACTUALLY, IT IS A TWO-FOLD -- THREE-FOLD THING:
27 A, WHY THEY SHOULD NOT BE DEEMED BREACHES.

28 B, THAT IF THEY ARE BREACHES, THEY SHOULD

1 BE EXCUSED.

2 SEE, THE COURT HAS NO JURISDICTION TO DETERMINE
3 IT ANYWAY.

4 MR. HERTZBERG: AND I WANTED TO INDICATE IN MY PRESEN-
5 TATION, IF I CAN JUST PROCEED IN AN ORDERLY FASHION, THOSE
6 ARE LEGAL ISSUES, NOT FACTUAL ISSUES; THAT THE POINT OF
7 DEPARTURE IS THAT WE SUBMITTED PAPERS TO THIS COURT IN WHICH
8 WE DOCUMENTED WHAT WE FELT WAS AN UNCONTROVERTED, UNCONTRO-
9 VERTIBLE PATTERN OF BREACHES OF THE AGREEMENT.

10 AND THERE IS NO RESPONSE TO THOSE ALLEGATIONS.

11 IN OTHER WORDS, MR. ARMSTRONG HAS NOT DISPUTED
12 THAT HE DID WHAT WE SAID HE DID. THAT IS THE FIRST PART.

13 AND THAT WHAT WE SAY AND OUR POSITION IS THAT
14 IF GIVEN THAT HE DID WHAT HE SAID HE DID, THOSE WOULD
15 VIOLATE THE PROVISIONS OF THE SETTLEMENT AGREEMENT IF IT
16 WERE OTHERWISE ENFORCEABLE.

17 ALL RIGHT. IT DOESN'T DISPUTE THAT THE
18 LANGUAGE OF THE AGREEMENT -- HE IS NOT CONCEDING THAT IT
19 SHOULD BE APPLIED, BUT HE DOES NOT -- AND THIS IS IMPORTANT
20 -- DISPUTE THAT IF THE AGREEMENT IS ENFORCEABLE, THAT WHAT
21 HE DID COMES WITHIN THE PROHIBITIONS OF THE SECTIONS OF THE
22 AGREEMENT THAT WE ENUMERATE.

23 TAKING THOSE THINGS AS A POINT OF DEPARTURE
24 AND, OF COURSE, THAT IS A MAJOR AREA IN WHICH THERE IS NO
25 FACTUAL DISPUTE AND WHERE THERE CANNOT BE A JUSTIFICATION
26 FOR A HEARING, I WILL TURN TO THE THREE CIRCUMSTANCES OR
27 THREE AREAS WHICH YOUR HONOR IDENTIFIED BEFORE LUNCH WHICH
28 YOU SAID WARRANTED A HEARING.

1 THE FIRST YOU SAID WERE THE CIRCUMSTANCES OF
2 THE ENTRY INTO THE AGREEMENT.

3 I WOULD SUBMIT TO YOUR HONOR THAT DOESN'T
4 MERIT A HEARING INSOFAR AS MR. ARMSTRONG HAS RAISED AN
5 ARGUMENT NOT DISPUTING THE FACT, BUT RATHER, DISPUTING
6 WHETHER THE CONTRACT IS ENFORCEABLE BECAUSE OF ALLEGED LACK
7 OF RECIPROCITY OR MUTUALITY. THAT IS FUNDAMENTALLY A LEGAL
8 ARGUMENT; FURTHERMORE --

9 THE COURT: JUST A MOMENT.

10 AS I UNDERSTAND IT, IT IS A LITTLE HARD TO
11 FOLLOW BECAUSE IT IS PRESENTED A LITTLE BIT CRYPTICALLY.

12 BUT THE LACK OF RECIPROCITY IS PRESENTED,
13 AS I UNDERSTAND IT, IN LIGHT OF THE AMBIGUITY OF THE
14 AGREEMENT AND THE DURESS ARGUMENT; IN OTHER WORDS, THE
15 AMBIGUITY GOES TO WHETHER OR NOT IT IS APPROPRIATE TO HAVE
16 A COURT ORDER LIMITING THE AGREEMENT.

17 MR. HERTZBERG: MAY I RESPOND TO THAT, YOUR HONOR?

18 FIRST OF ALL, INSOFAR AS HE IS ARGUING
19 THAT YOUR HONOR SHOULD IMPLY TERMS THAT ARE NOT ON THE
20 PLAIN FACE OF THE CONTRACT, IN OTHER WORDS, THAT --

21 THE COURT: LET ME SAY I AGREE WITH YOU. I DIDN'T GET
22 A CHANCE TO COMPLETELY INDICATE MY THINKING. BUT IF THERE
23 IS A -- YOU KNOW, AT THIS STAGE I AM A LITTLE UNCLEAR
24 EXACTLY THE FULL EXTENT OF WHAT MR. ARMSTRONG IS ASSERTING.

25 BUT TO THE EXTENT THERE IS AN ASSERTION AT
26 THIS TIME THAT I SHOULD READ MORE TERMS INTO THE AGREEMENT,
27 YOU KNOW, I AM NOT INCLINED TO DO THAT.

28 BUT AS I UNDERSTAND THE ARGUMENT --

1 AND THERE IS SOME OF THAT IN THEIR PAPERS -- I THINK IT GOES
2 A LITTLE FURTHER. AND THAT IS THAT THE AGREEMENT AS
3 WORDED IS ALL ONE-SIDED. IT ONLY RESTRAINS MR. ARMSTRONG
4 AND WHICH THERE IS NOTHING IMMORAL ABOUT IT IF PEOPLE AGREE
5 TO IT, BUT IT RESTRAINED HIM IN WAYS THAT ARE UNCERTAIN,
6 UNCLEAR BECAUSE, FOR EXAMPLE, HE HAS AGREED TO REFRAIN FROM,
7 QUOTE, MAKING HIMSELF -- I AM NOT SURE IT IS A QUOTE,
8 SOMETHING LIKE MAKING HIMSELF AVAILABLE TO THE SERVICE OF
9 LEGAL PROCESS.

10 NOW, AS THEY POINT OUT, DOES THAT MEAN -- THEY
11 DON'T QUITE PUT IT THIS WAY, BUT I'LL PUT IT THIS WAY --
12 DOES THAT MEAN THAT IF I WERE TO ISSUE AN INJUNCTION, THEN
13 WE COULD HAVE A CONTEMPT HEARING IF HE WAS AT A RESTAURANT
14 AND THE PROCESS SERVER CAME IN AND HE DIDN'T JUMP UP AND RUN
15 AWAY?

16 IT IS A CONCEPT THAT I FEEL UNCOMFORTABLE
17 PUTTING INTO AN ORDER, EVEN THOUGH THE PARTIES PUT IT INTO
18 THEIR AGREEMENT.

19 SO THAT IS THE FIRST STEP.

20 BUT THERE IS ANOTHER PART TO IT. AND THAT IS
21 THAT IT BEING SO UNCLEAR AND BEING SO AMBIGUOUS AND BEING
22 SO ONE-SIDED, HE ARGUES THAT IT GIVES SUPPORT TO HIS ARGUMENT
23 THAT IT WAS ENTERED INTO FOR THE REASONS HE SAYS THAT WERE
24 ANYTHING OTHER THAN VOLUNTARILY.

25 AND HE SAYS THERE WERE A LOT OF PEOPLE THAT
26 ALSO WANTED TO ENTER THE AGREEMENT.

27 HIS LAWYER REPRESENTED ALL THE PEOPLE. IF HE
28 HADN'T SIGNED THE AGREEMENT, HE REALLY HAD NO ALTERNATIVE

1 BECAUSE THE LAWYER WAS GETTING OUT EITHER WAY. THERE WAS
2 JUST A SUGGESTION THAT NOBODY IN THEIR RIGHT MIND WOULD
3 ENTER INTO AN AGREEMENT LIKE THIS EXCEPT UNDER SOME KIND OF
4 DURESS.

5 AND THAT IS WHAT WE NEED TO GO INTO.

6 I CAN'T DISPOSE OF THAT ASSERTION AND THOSE
7 CONCLUSIONARY ALLEGATIONS WITHOUT AN EVIDENTIARY HEARING.

8 MR. HERTZBERG: I THINK YOU COULD.

9 THE COURT: I WOULD FEEL UNCOMFORTABLE DOING IT.

10 MR. HERTZBERG: I WOULD LIKE TO FINISH EXPLAINING TO
11 YOU WHY UNDER THE RUBERIC OF CIRCUMSTANCES ENTERING AN
12 AGREEMENT DOES NOT WARRANT AN EVIDENTIARY HEARING.

13 FIRST OF ALL, YOUR HONOR, I BELIEVE, HAS
14 MISINTERPETED THE ONE IMPORTANT PROVISION THAT YOU JUST
15 RECITED INSOFAR AS YOU UNDERSTOOD THAT THERE IS A PROVISION
16 IN THE AGREEMENT THAT HE CANNOT ACCEPT SERVICE OF PROCESS.
17 THAT IS ABSOLUTELY, PATENTLY, NOT THE CASE.

18 THE COURT: LET'S READ IT. I DON'T WANT TO JUST SKIP
19 OVER THAT. I HAVE MARKED IT HERE. LET ME FIND IT.

20 IT IS ON PAGE 11. AND IT SAYS, " ... UNLESS
21 REQUIRED TO DO SO BY SUCH SUBPOENA, PLAINTIFF AGREES NOT TO
22 DISCUSS THIS LITIGATION OR HIS EXPERIENCE WITH AND KNOWLEDGE
23 OF THE CHURCH WITH ANYONE OTHER THAN MEMBERS OF HIS
24 IMMEDIATE FAMILY."

25 MS. PLEVIN: THE SENTENCE STARTS AT THE BOTTOM OF PAGE
26 10, YOUR HONOR.

27 MR. HERTZBERG: COULD I, PLEASE, NOT BE INTERRUPTED?

28 THE COURT: (READING:)

1 " ... PLAINTIFF AGREES NOT TO
2 TESTIFY OR OTHERWISE PARTICIPATE IN ANY OTHER
3 JUDICIAL, ADMINISTRATIVE, OR ADMINISTRATIVELY
4 RELIGIOUS PROCEEDING ADVERSE TO SCIENTOLOGY OR
5 ANY OTHER SCIENTOLOGY CHURCHES."

6 MR. HERTZBERG: MAY I MAKE AN OBSERVATION?

7 THIS PROCEEDING IS, I THINK, SUPPOSED TO GO
8 UNDER SEAL.

9 ALL OUR PAPERS WERE FILED UNDER SEAL. THERE
10 IS A SEALING ORDER WHICH THE COURT OF APPEAL AFFIRMED WITH
11 RESPECT TO THIS PROCEEDING.

12 THE COURT: YOU DON'T WANT ME TO READ THE TERMS?

13 MS. PLEVIN: IS MR. HERTZBERG RAISING THE ISSUE THAT
14 WE SHOULD PROCEED BY A STAR CHAMBERS PROCEDURE, YOUR HONOR?

15 THIS IS PREPOSTEROUS; IN FACT, THE COURT OF
16 APPEAL DID NOT AFFIRM THAT THESE DOCUMENTS BE SEALED AT ALL.
17 THEY ABSOLUTELY REFUSED THE MOVING PARTY'S MOTION TO SEAL
18 ANY OF THE DOCUMENTS IN THE COURT OF APPEAL INCLUDING THE
19 SETTLEMENT AGREEMENT.

20 THE COURT: THEY DID THAT FOR THEIR RECORD. BUT ON
21 MY RECORD, THEY ACTUALLY ISSUED AN ORDER LIMITING THE
22 UNSEALING; IN OTHER WORDS, WE HAVE A SITUATION OF A LITTLE
23 BIT OF NON-CONFIDENTIALITY. NOW, THIS IS A LIVE EXAMPLE OF
24 WHAT I WAS TALKING ABOUT THIS MORNING.

25 HERE WE ARE IN A COURT OF LAW WHERE WE HAVE
26 GOT A MOTION, PUBLIC PEOPLE, INDIVIDUALS THAT WERE NOT A
27 PARTY TO WHATEVER LED UP TO JUDGE BRECKENRIDGE'S ORDER ARE
28 NOW INTERESTED IN THIS PROCEDURE AND YOU ARE NOW SUGGESTING

1 THAT I AM PRECLUDED BY THE PRIVATE AGREEMENT THAT WAS,
2 QUOTE, SO ORDERED BY JUDGE BRECKENRIDGE FROM READING THE
3 TERMS ALLOWED IN THIS PUBLIC HEARING BECAUSE THERE ARE
4 PEOPLE HERE THAT WEREN'T A PARTY AT THAT TIME AND HAD NO
5 VOICE IN WHETHER OR NOT THAT ORDER SEALING THE FILE WAS OR
6 WAS NOT IN THE PUBLIC INTEREST OR IN THEIR INTEREST OR
7 CONTRARY TO THEIR INTEREST.

8 THAT IS THE PROBLEM WITH THESE CONFIDENTIALITY
9 ORDERS OR AGREEMENTS WHEN THEY ARE MADE INTO ORDERS.

10 THAT IS ONE OF THE PROBLEMS.

11 MR. HERTZBERG: BUT WITH ALL DUE RESPECT, YOUR HONOR,
12 THE COURT OF APPEAL SAID WE WERE ENTITLED TO THAT CONFIDENTIALITY IN THIS CASE.

13 MS. PLEVIN: HOWEVER, THE SETTLEMENT AGREEMENT WAS NOT
14 FILED UNDER SEAL. THE SEAL DOES NOT EXTEND TO THE CONFIDENTIALITY AGREEMENT AT ALL. IT HAS NOT BEEN FILED.

15 MR. YANNY: IT CERTAINLY WOULD NOT.

16 MR. HERTZBERG: I WOULD LIKE TO FINISH WITHOUT INTERRUPTION, PLEASE.

17 THE COURT: THIS IS A HEARING. I AM NOT GOING TO HAVE
18 YOU GO THROUGH 14 POINTS AND TRY TO PICK UP ON YOUR FIRST
19 POINT WITH THE OTHER PEOPLE.

20 THIS IS A POINT WE NEED TO DISPOSE OF RIGHT
21 NOW. I AM NOW HEARING FROM OTHER PEOPLE.

22 MR. HERTZBERG: I WAS ONLY POINTING OUT THAT THERE
23 WERE PEOPLE PRESENT AND UNDER MY UNDERSTANDING, THIS
24 DOCUMENT IS UNDER SEAL.

25 BUT LET'S MOVE ON.

1 THE COURT: THIS IS SORT OF SYMPTOMATIC OF THE PROBLEM,
2 COUNSEL. THERE ARE PEOPLE IN THE COURTROOM. I DON'T KNOW
3 WHO THEY ARE. THERE ARE SIX PEOPLE IN THE COURTROOM. I
4 KNOW ONE MATTER IS ON A MATTER STILL TO BE HEARD THIS
5 AFTERNOON. THERE ARE FIVE PEOPLE THAT I DON'T KNOW WHO THEY
6 ARE.

7 BUT THIS IS A PUBLIC COURTROOM. DO YOU WANT
8 ME TO CLEAR THE COURTROOM?

9 MR. HERTZBERG: IN FLORIDA THE PRESS WAS EXCLUDED,
10 YOUR HONOR.

11 MR. YANNY: YOUR HONOR --

12 MR. HERTZBERG: IN FLORIDA IN ONE OF THE ENFORCEMENT
13 PROCEEDINGS IN FEDERAL COURT THE DISTRICT COURT ORDERED THE
14 PRESS EXCLUDED FROM PRECISELY THIS KIND OF PROCEEDING. AND
15 THE 11TH CIRCUIT AFFIRMED.

16 THE COURT: WAS THAT A PROCEEDING INVOLVING THE
17 CONFIDENTIALITY ORDER OF JUDGE BRECKENRIDGE?

18 MR. YANNY: NO, IT WAS NOT, YOUR HONOR.

19 MR. HERTZBERG: MAY I FINISH, PLEASE?

20 YOUR HONOR, IT WAS AN ENFORCEMENT OF A SIMILAR
21 SETTLEMENT AGREEMENT WHICH WAS SIMILARLY UNDER SEAL.

22 THE COURT: I CAN'T DO SIMILAR. BECAUSE UNDER SOME
23 CIRCUMSTANCES THAT WOULD BE WELL JUSTIFIED. BUT THE CIRCUM-
24 STANCES --

25 MR. HERTZBERG: THEY ARE VIRTUALLY IDENTICAL.

26 THE COURT: I DON'T KNOW THAT. I AM NOT THERE. IT IS
27 NOT TOO HELPFUL. IT IS NOT MUCH OF AN ARGUMENT.

28 I AM NOT GOING TO DEAL WITH THAT. I HAVE TO

1 DEAL WITH THIS.

2 WE ARE DEALING WITH THIS SITUATION HERE. AND
3 MAYBE WE OUGHT TO GET THE FACTS OUTLINED BECAUSE I MAY BE
4 MISTAKEN ON SOME FACTS HERE.

5 MR. HERTZBERG: LET'S GO BACK TO H AT THE BOTTOM OF
6 10 AND LOOK AT IT BECAUSE --

7 THE COURT: LET'S GET DOWN EXACTLY THE FACTS. BECAUSE
8 YOU HAVE NOW SAID ONE THING AND MS. PLEVIN STANDS UP AND
9 SAYS NO, THAT IS NOT RIGHT. THE AGREEMENT WAS NEVER EVEN
10 FILED.

11 SO I WOULD LIKE TO ASSEMBLE IN ONE PLACE,
12 BECAUSE IT IS HARD TO DO. THIS HAS GONE ON FOR SO LONG AND
13 THERE HAS BEEN SO MUCH COURT INVOLVEMENT.

14 WHAT I HAVE IS A DOCUMENT THAT WAS FILED
15 DECEMBER 11, 1986 SAYING "STIPULATED SEALING ORDER." ON THE
16 VIDEO TAPE THERE WERE FOUR DOCUMENTS IDENTIFIED. I COULDN'T
17 READ THEM, OBVIOUSLY. BUT THERE WAS A SETTLEMENT AGREEMENT,
18 A SEALING ORDER, AND TWO AFFIDAVITS.

19 NOW, I GUESS I AM NOT INTERESTED IN WHAT WAS
20 NECESSARILY AT THE SCENE OF THE SIGNING OF THE AGREEMENT AT
21 THIS POINT, BUT WHAT I WOULD LIKE TO KNOW, I WOULD LIKE TO
22 HAVE BEFORE ME EVERYTHING THAT JUDGE BRECKENRIDGE SIGNED AS
23 AN ORDER THAT IS RELEVANT HERE.

24 MR. HERTZBERG: I WOULD LIKE TO PASS UP A DOCUMENT
25 WHICH YOU DON'T HAVE.

26 THE COURT: ADDRESS THAT QUESTION BEFORE WE SKIP OVER
27 IT.

28 IS THERE ANY OTHER DOCUMENT THAT JUDGE

1 BRECKENRIDGE SIGNED THAT RELATES TO OUR PROCEEDING HERE
2 TODAY?

3 MR. HERTZBERG: YES, AT LEAST ONE WHICH I DON'T THINK
4 IS BEFORE YOUR HONOR. AND I JUST GAVE COPIES TO OTHER
5 COUNSEL.

6 THE COURT: ALL RIGHT. HAND IT UP.

7 NOW, FOR THE RECORD COUNSEL HAS HANDED -- I
8 SHOULD EXPLAIN. THIS IS ALSO SYMPTOMATIC OF THE PROBLEM;
9 THAT THE FILE IN THIS CASE HAS BEEN SENT OVER TO ARCHIVES
10 BECAUSE IT IS SO OLD. THAT IS ONE OF THE PROBLEMS IN A
11 JUDICIAL SYSTEM OF HAVING A SITUATION INVOLVING CONTINUAL,
12 OPEN-ENDED, REPEATED COURT SUPERVISION.

13 NOW, WHAT COUNSEL HAS HANDED ME IS A MINUTE
14 ORDER, WHAT PURPORTS TO BE A COPY. IT LOOKS LIKE A MINUTE
15 ORDER OF DECEMBER 11, 1986 IN JUDGE BRECKENRIDGE'S
16 DEPARTMENT. IT IS, OBVIOUSLY, NOT SIGNED BY JUDGE BRECKEN-
17 RIDGE AND IT STATES, "PURSUANT TO STIPULATION OF THE PARTIES,
18 THE CROSS-COMPLAINT IS DISMISSED WITH PREJUDICE. FURTHER,
19 ORDERS ARE MADE PURSUANT TO STIPULATION INCLUDING THE
20 FOLLOWING:

21 "THE COURT RETAINS JURISDICTION
22 TO ENFORCE THE SETTLEMENT AGREEMENT."

23 MR. HERTZBERG: I WAS COMING TO THAT, YOUR HONOR.

24 THE COURT: AND THAT SETTLEMENT AGREEMENT WAS NOT
25 FILED THEN AND IS NOT FILED NOW; IS THAT RIGHT?

26 MR. HERTZBERG: THAT'S RIGHT. BUT IT IS IRRELEVANT.

27 THE COURT: YOU SEE, UNFORTUNATELY -- AND I REALLY
28 MEAN THIS -- IT IS VERY, VERY, VERY UNFORTUNATE THAT JUDGE

1 BRECKENRIDGE ISN'T HERE TO DO THIS BECAUSE YOU ARE NOW
2 SHOWING ME AN ORDER WHICH I DON'T FIND A SIGNATURE ON. WAS
3 THERE SUCH AN ORDER SIGNED?

4 MR. HERTZBERG: TO THE BEST OF MY KNOWLEDGE. WE DIDN'T
5 MAKE THIS UP.

6 THE COURT: I NEED TO SEE IT BECAUSE IT IS VERY
7 UNUSUAL FOR A JUDGE, IN MY LIMITED EXPERIENCE, TO RETAIN
8 JURISDICTION TO ENFORCE A SETTLEMENT AGREEMENT. NORMALLY
9 YOU RETAIN JURISDICTION TO ENFORCE A JUDGMENT OR A COURT
10 ORDER. BUT, YOU SEE, HE DIDN'T EVEN ORDER THE AGREEMENT
11 ITSELF PERFORMED. IF I WOULD DO IT, I WOULD BE THE FIRST ONE
12 EVER TO DO IT.

13 I REALLY NEED TO SEE THE ORDERS THAT WERE
14 SIGNED BY JUDGE BRECKENRIDGE INSOFAR AS YOU ARE SEEKING ANY-
15 THING BASED UPON ORDER BY JUDGE BRECKENRIDGE.

16 YOU SEE, IT IS NOT UNHEARD OF THAT CLERKS
17 DON'T GET THINGS RIGHT.

18 MR. HERTZBERG: LET ME SUGGEST THE FOLLOWING IN ANSWER
19 TO YOUR QUESTION: I DIDN'T MAKE THIS UP.

20 THE COURT: I AM NOT SUGGESTING THAT YOU MADE IT UP.

21 I AM TRYING TO FIGURE OUT THE SIGNIFICANCE.
22 I AM NOT SUGGESTING THAT YOU MADE IT UP.

23 MR. HERTZBERG: THIS IS A CRITICAL DOCUMENT, YOUR
24 HONOR, THAT SHOULD LAY TO REST WITHOUT DOUBT THE ISSUE OF
25 JUDGE BRECKENRIDGE HAVING RETAINED JURISDICTION TO ENFORCE
26 THIS MATTER.

27 AND ONE OTHER POINT, WHICH IS CRITICAL, THERE
28 IS NOTHING TO INDICATE --

1 THE COURT: YOU CAN'T SAY "ENFORCE THIS MATTER."

2 YOU HAVE TO BE PRECISE. WE DON'T ENFORCE
3 MATTERS; WE NORMALLY ENFORCE ORDERS OR JUDGMENTS.

4 ACCORDING TO THIS, IT SAYS ENFORCE THE SETTLE-
5 MENT AGREEMENT.

6 MR. HERTZBERG: THAT IS WHAT IT STATES.

7 THE COURT: THAT IS A BIT BROAD. AND I'LL HAVE TO SEE
8 THE ORDER TO KNOW EXACTLY -- IT DOES SAY PURSUANT TO
9 STIPULATION. SO WE REALLY NEED TO SEE EXACTLY WHAT WAS
10 PUT BEFORE JUDGE BRECKENRIDGE THAT HE SIGNED THAT WE ARE NOW
11 SEEKING TO RETAIN JURISDICTION BASED UPON.

12 MR. HERTZBERG: YOUR HONOR, IF I COULD CLARIFY,
13 JUDGE BRECKENRIDGE KNEW THE TERMS OF THIS SETTLEMENT.

14 THE COURT: HOW DID HE KNOW THEM?

15 MR. HERTZBERG: FOR INSTANCE, I WAS THERE DECEMBER 6TH.

16 THE COURT: WE CAN'T GO ON THAT. HE DIDN'T HAVE THE
17 AGREEMENT.

18 MR. HERTZBERG: THAT DIDN'T MATTER. HE ISSUED --
19 ASSUMING THIS IS A GENUINE DOCUMENT -- HE ISSUED THIS MINUTE
20 ORDER. AND THIS MINUTE ORDER --

21 THE COURT: HE DOES NOT ISSUE A MINUTE ORDER. A
22 MINUTE IS PREPARED BY THE CLERK; SOMETIMES, SOMETIMES NOT,
23 CHECKED BY THE JUDGE INVOLVED.

24 MR. HERTZBERG: IT BEARS A DATE. IT SAYS "MINUTES
25 ENTERED 12/11/86" WITH A COUNTY CLERK SEAL. IT HAS JUDGE
26 BRECKENRIDGE'S NAME AT THE TOP AND HAS THE DATE ABOVE IT.
27 AND WE ARE RELYING ON THIS DOCUMENT.

28 THE COURT: WHAT I AM SAYING TO YOU IS BASICALLY WHAT

1 WE REALLY NEED IS THE ORDER THAT HE SIGNED.

2 NOW, LATER IN THIS PARAGRAPH IT SAYS, " ...
3 THE ENTIRE REMAINING RECORD OF THIS CASE EXCEPT THE
4 STIPULATED SEALING ORDER AND THE ORDER DISMISSING ACTION
5 WITH PREJUDICE FILED THIS DATE ARE ORDERED SEALED AND NOT
6 TO BE OPENED OR INSPECTED WITHOUT PRIOR COURT ORDER."

7 NOW, EVEN THAT IN THE MINUTE ORDER SUGGESTS
8 THAT THIS ISN'T IN STONE FOR EVER. AND I DO HAVE A COPY OF
9 ONE OF THE ORDERS REFERRED TO THERE WHICH CONTAINS LANGUAGE
10 VERY SIMILAR TO THE LAST PART OF THIS MINUTE ORDER, BUT NOT
11 ANYTHING LIKE THE FIRST PART ABOUT RETAINING JURISDICTION
12 TO ENFORCE THE SETTLEMENT AGREEMENT.

13 MS. PLEVIN: THE ONLY PERTINENT DOCUMENT, I BELIEVE,
14 IS EXHIBIT Q TO THE MOTION WHICH IS THE ORDER DISMISSING
15 ACTION WITH PREJUDICE.

16 I BELIEVE, BASED ON MY REVIEW OF THE TRANSCRIPT
17 WHICH, AFTER MR. HERTZBERG'S REMARKS ARE CONCLUDED, I'LL
18 REVIEW WITH YOU IS PROBABLY THE SOURCE OF THE CONFUSION.
19 IT IS ALMOST THE LAST OF THEIR EXHIBITS, YOUR HONOR.

20 THE COURT: I AM LOOKING AT Q. MAYBE THIS IS HELPFUL.
21 THERE IS AN ORDER ON IT HERE, ORDER DISMISSING ACTION WITH
22 PREJUDICE, WHICH SHOWS A CONFIRMED SIGNATURE OF JUDGE
23 BRECKENRIDGE. AND IT IS A FOUR-LINER.

24 MS. PLEVIN: YOUR HONOR, THIS IS THE ORDER WHICH,
25 WHEN THIS MOTION WAS ORIGINALLY FILED, THE MOVING PARTIES
26 CHOSE TO RELY ON FOR THE CLAIM THAT THE COURT RETAINED
27 JURISDICTION TO ENFORCE THE SETTLEMENT AGREEMENT.

28 MR. HERTZBERG: YOUR HONOR, I THOUGHT I HAD THE FLOOR

1 AS THE MOVING PARTY. AND I WOULD LIKE TO MOVE ALONG.

2 THIS IS A SUBSTANTIVE ARGUMENT. I CAN ADDRESS
3 ALL THIS.

4 I AM HAVING TROUBLE BECAUSE DISJOINTED ASPECTS
5 OF THE SUBSTANTIVE ISSUES ARE BEING RAISED HITHER, THITHER
6 AND BEYOND.

7 THE COURT: BUT YOU MUST BE WILLING WHEN YOU MAKE A
8 POINT TO HAVE IT EXAMINED AT THE TIME. THERE ARE PROBABLY
9 10 OR 15 DIFFERENT POINTS INVOLVED IN THIS OVERALL SITUATION.
10 IT IS TOO MUCH OF A BURDEN ON EITHER COUNSEL OR THE COURT
11 TO SAY FORGET THAT ONE; I'LL GO ON TO ANOTHER ONE.

12 MR. HERTZBERG: THEN LET ME RESPOND TO IT.

13 THE JURISDICTIONAL ISSUE WAS BELATEDLY RAISED
14 IN THE ELEVENTH HOUR LAST WEEK AFTER ALL THE OTHER BRIEFING
15 WAS DONE. AND, YOUR HONOR, WE ARE RELYING ON THE SETTLEMENT
16 AGREEMENT WHICH THE PARTIES SIGNED WHICH SAID THAT THE COURT
17 -- THAT WE WERE SUBMITTING OURSELVES TO THE COURT'S FURTHER
18 JURISDICTION TO RESOLVE SETTLEMENT DISPUTES THAT MIGHT ARISE.
19 WE ARE RELYING ON THE ORDER THAT I JUST GAVE YOU. WE ARE --

20 THE COURT: THE MINUTE ORDER OF DECEMBER 11, '86?

21 MR. HERTZBERG: WE ARE RELYING ON ALL THE OTHER ORDERS
22 THAT WERE BEFORE THE COURT. WE ARE RELYING --

23 THE COURT: WHAT OTHER ORDERS? BECAUSE TECHNICALLY,
24 EVERYTHING IN THIS -- I DON'T KNOW -- 12 VOLUME FILE IS,
25 QUOTE, BEFORE ME. AND THEY ARE NOT EVEN IN THE ROOM OR IN
26 THE BUILDING.

27 MR. HERTZBERG: WE ARE RELYING ON THE DECEMBER 8TH,
28 1986 JOINT STIPULATION BETWEEN THE COUNSEL FOR BOTH PARTIES.

1 THE LAST SENTENCE, WHICH SAYS, "THIS COURT
2 SHALL RETAIN JURISDICTION -- "

3 THE COURT: BEFORE YOU READ IT, WHERE IT IS?

4 MS. PLEVIN: IT IS AN EXHIBIT TO THIS REPLY TO THE
5 JURISDICTIONAL BRIEF, YOUR HONOR.

6 MR. HERTZBERG: WE SUBMITTED IT WHEN THEY, LAST WEEK
7 AT THE LAST MOMENT, FILED THEIR JURISDICTIONAL ARGUMENT.

8 THE COURT: WHICH EXHIBIT IS IT?

9 MR. HERTZBERG: THERE'S A DOCUMENT CALLED "SUPPLE-
10 MENTAL REPLY IN SUPPORT OF MOTION TO ENFORCE SETTLEMENT
11 AGREEMENT." IT IS THE DECLARATION OF RANDALL A. SPENCER, AN
12 EXHIBIT A TO THAT.

13 MAY I PASS A COPY UP TO YOUR HONOR?

14 THE COURT: NO. I REALLY NEED TO FIND IT IN THE RECORD
15 HERE.

16 MS. PLEVIN: IT IS NOT RESPONSIVE, YOUR HONOR. IT IS
17 NOT AN ORDER OF THE COURT. IT IS A DOCUMENT SIGNED BY THE
18 PARTIES. IT IS NOT SIGNED BY THE COURT; IT IS NOT AN ORDER.

19 MR. YANNY: AND, YOUR HONOR, THE ORIGINAL QUESTION WAS
20 WHETHER THE COURTROOM SHOULD BE CLEARED.

21 WE HAVE GONE SO FAR AWAY FROM THAT.

22 THE COURT: OKAY. NOW I HAVE THE DOCUMENT. BUT IT IS
23 ENTITLED "REPLY IN SUPPORT OF THE MOTION TO ENFORCE SETTLE-
24 MENT."

25 MR. HERTZBERG: NO. IT IS ENTITLED "SUPPLEMENTAL
26 REPLY IN SUPPORT OF THE MOTION TO ENFORCE SETTLEMENT AGREE-
27 MENT. DECLARATION OF RANDALL A. SPENCER."

28 THE COURT: OKAY. NOW, EXHIBIT A TO THAT IS THE

1 "PETITION FOR REVIEW DENIED IN THE SUPREME COURT."

2 MS. PLEVIN: THAT IS THE WRONG DOCUMENT, YOUR HONOR.

3 THE COURT: IT IS ENTITLED "SUPPLEMENTAL OPPOSITION
4 TO GERALD -- "

5 MR. HERTZBERG: NO. "SUPPLEMENTAL REPLY IN SUPPORT
6 OF THE MOTION." THIS IS A RESPONSE TO THE DOCUMENT YOUR
7 HONOR JUST READ FROM.

8 THE COURT: WHEN WAS IT FILED?

9 MR. HERTZBERG: I THINK TWO DAYS AFTER THAT.

10 MS. PLEVIN: DECEMBER 19TH, YOUR HONOR.

11 THE COURT: OKAY. HERE IT IS.

12 MR. HERTZBERG: EXHIBIT A, YOUR HONOR.

13 THE COURT: THIS IS ENTITLED "JOINT STIPULATION OF
14 DISMISSAL." BUT THERE IS NO ORDER OF COURT OR SIGNATURE OF
15 JUDGE BRECKENRIDGE HERE; RIGHT?

16 MR. HERTZBERG: THAT IS CORRECT, YOUR HONOR.

17 THE COURT: I JUST WANT TO MAKE AN INVENTORY OF WHAT
18 WE HAVE, WHAT MOVING DOCUMENTS WE HAVE THAT RELATE TO THIS
19 ISSUE.

20 MR. HERTZBERG: THAT IS WHY WE ARE GOING THROUGH THIS.

21 THE COURT: WELL, I NEED TO DO IT.

22 MR. HERTZBERG: YOU ASKED ME WHAT I AM RELYING ON. I
23 AM RELYING ON THAT.

24 THE COURT: I'LL PUT DOWN, FIRST OF ALL, THOSE THAT
25 ARE SIGNED BY A JUDGE.

26 WE HAVE THE STIPULATED SEALING ORDER OF
27 DECEMBER 11, '86.

28 THEN WE HAVE THE ORDER DISMISSING ACTION WITH

1 PREJUDICE, ALSO OF DECEMBER 11, '86.

2 THEN WE HAVE THE MINUTE ORDER OF DECEMBER 11.

3 MR. HERTZBERG: THERE ARE TWO ORDERS ON DECEMBER 11TH.
4 ONE IS THE ONE I GAVE YOUR HONOR A FEW MINUTES AGO WHICH HAS
5 THE LANGUAGE, " ... THE COURT RETAINS JURISDICTION TO ..."

6 THE COURT: YOU ARE HOLDING UP THE MINUTE ORDER. THAT
7 IS WHAT I AM NOW INVENTORYING.

8 IT SAYS "MINUTE ORDER OF DECEMBER 11, 1986."

9 AND THEN THERE IS A FOURTH DOCUMENT. THAT IS
10 THE ONE YOU HAVE JUST REFERRED TO; IT IS ENTITLED "JOINT
11 STIPULATION OF DISMISSAL."

12 MR. HERTZBERG: THAT'S RIGHT. NOW, THERE IS ANOTHER
13 ORDER OF DECEMBER 11TH.

14 MR. YANNY: WERE THE LAST TWO SIGNED BY A JUDGE?

15 THE MINUTE ORDER WAS NOT SIGNED BY THE JUDGE
16 AND THE JOINT STIPULATION --

17 MR. HERTZBERG: PLEASE, PLEASE.

18 THERE IS EXHIBIT Q TO OUR MOVING PAPERS;
19 ANOTHER ORDER OF DECEMBER 11, 1986.

20 THE COURT: I HAVE ALREADY CATALOGED THAT. THAT IS
21 THE SECOND ONE THAT IS ENTITLED "ORDER DISMISSING ACTION
22 WITH PREJUDICE."

23 SO THESE ARE IN. THAT IS THE WHOLE LIST.

24 WHAT ELSE IS THERE?

25 MR. HERTZBERG: THERE ARE TWO MORE THINGS. ONE OF THEM
26 IS AN EXCERPT FROM THE DECEMBER 11, 1986 TRANSCRIPT IN THIS
27 CASE BEFORE JUDGE BRECKENRIDGE.

28 THE COURT: IS THAT TRANSCRIPT IN THE RECORD HERE?

1 MS. PLEVIN: I FILED IT, YOUR HONOR. IT SHOULD BE
2 BEFORE YOU. IT WAS FILED ON DECEMBER 20TH.

3 NOTICE OF LODGING OF DOCUMENTS, IT WAS ACCEPTED
4 AS FILED AND IT IS ITEM 1.

5 I FILED THE ENTIRE TRANSCRIPT OF THE PROCEEDINGS
6 OF DECEMBER 11, 1986.

7 THE COURT: THEY SAID THEY HAVE LODGED SOME THINGS
8 HERE.

9 MS. PLEVIN: I MAY HAVE AN EXTRA ONE TO GIVE YOU.

10 MR. HERTZBERG: I HAVE AN EXTRA ONE.

11 THE COURT: HAND IT TO THE CLERK.

12 MR. HERTZBERG: I WANTED TO READ FROM IT.

13 THE COURT: I NEED IT TO FOLLOW ALONG AND LISTEN TO
14 THE CONTEXT.

15 MR. HERTZBERG: I WANTED TO DIRECT YOUR HONOR'S
16 ATTENTION TO PAGE 2, LINES 16 THROUGH 20.

17 THE COURT: OKAY. WHAT I AM GOING TO DO IS TAKE A
18 BRIEF RECESS. WE HAVE ANOTHER MATTER ANYWAY. AND BEFORE
19 WE DO THAT, LET'S JUST DO THIS: THE FIRST ONE LISTED IS THE
20 STIPULATED SEALING ORDER; WHAT DO YOU RELY ON THERE? WHAT
21 PART OF THIS ORDER DO YOU RELY UPON?

22 MR. HERTZBERG: I DON'T HAVE IT IN FRONT OF ME, YOUR
23 HONOR.

24 THE COURT: DURING THIS RECESS GET THEM IN ORDER AND
25 WE'LL EVEN GIVE THEM NUMBERS HERE.

26 THE FIRST ONE IS THE STIPULATED SEALING ORDER.
27 THE SECOND ONE IS THE ORDER DISMISSING ACTION.
28 THE THIRD ONE IS THE MINUTE ORDER.

1 THE FOURTH ONE IS THE JOINT STIPULATION OF
2 DISMISSAL.

3 THE FIFTH ONE IS THE TRIAL TRANSCRIPT, PAGE
4 2, LINE 16 THROUGH LINE 20 OF DECEMBER 11TH.

5 I AM GOING TO ASK YOU NOW AFTER THIS BRIEF
6 RECESS TO GO OVER WITH ME EACH OF THE PORTIONS OF THESE
7 ORDERS THAT YOU RELIED UPON AND STATE WITHOUT DRIFTING THAT
8 THERE IS SOME OTHER ISSUE, WHAT IT IS, AND WHAT YOU RELY
9 UPON IT FOR.

10 MR. HERTZBERG: SURE. I WOULD LIKE TO DO THAT WITHOUT
11 PREJUDICE TO IF WE FIND SOMETHING ELSE AFTER WE LEAVE HERE
12 TODAY, WHILE THIS ACTION IS PENDING, TO ALSO SUBMIT THAT TO
13 THE COURT. BUT, SURELY, WE'LL DO THAT WITH RESPECT TO THESE
14 DOCUMENTS.

15 THE COURT: WELL, OKAY. BUT I THINK THIS OPEN-ENDEDNESS
16 IS A PROBLEM. SO IT IS INCUMBENT UPON YOU TO NOW BE PREPARED
17 TO STATE THE BASIS FOR THE ACTION THAT YOU SEEK THE COURT
18 TO TAKE, NOT TO SAY WE MAY NOT HAVE IT NOW, BUT WE MAY GET
19 IT LATER.

20 MR. HERTZBERG: I AM SAYING THEY JUST FILED LAST WEEK --
21 AFTER ALL THE BRIEFING WAS IN, THEY RAISED THIS JURISDICTION
22 POINT. AND WE HAVE SCRAMBLED TO FIND DOCUMENTS RESPONSIVE
23 TO THAT. WE THINK WE HAVE MORE THAN ENOUGH TO COMPLETELY
24 ANSWER THAT ISSUE. BUT IT SEEMS THAT YOUR HONOR IS TRYING
25 TO HOLD ME FOR IMPERPETUITY WHEN I COME BACK TO SPECIFIC
26 PROVISIONS OF THESE DOCUMENTS. I THINK IN FUNDAMENTAL FAIR-
27 NESS, ALL I WANTED TO DO WAS TO INDICATE THAT I WILL
28 ENDEAVOR TO DO THAT FOR THESE DOCUMENTS. WE DON'T WANT TO

1 SAY THAT WE MAY NOT FIND SOMETHING ELSE BEFORE THIS PROCEEDING
2 IS CONCLUDED.

3 THE COURT: OBVIOUSLY IF YOU MAKE A SHOWING, WE'LL
4 CONSIDER THAT. BUT I THINK YOU ARE DOING THIS A LITTLE TOO
5 LIMITED RIGHT NOW.

6 WHAT I WANT YOU TO DO AFTER THE RECESS IS
7 SPECIFY FOR ME WHAT PROVISIONS YOU RELY ON AND FOR WHAT
8 PURPOSE.

9 THERE IS MORE INVOLVED HERE THAN THE JURIS-
10 DICTIONAL ISSUE, MAYBE.

11 IF THERE IS JURISDICTION, THEN YOU ARE SAYING
12 BASED ON SOMETHING, MAYBE SEVERAL THINGS, WE SEEK AN ORDER,
13 A COURT ORDER, AS YOU ARE SEEKING. AND, OBVIOUSLY, WE NEED
14 TO HAVE THE SAME KIND OF DELINEATION.

15 NOW, WE SHOULD ADD TO THIS LIST, I GUESS, NO.
16 6, THE SETTLEMENT AGREEMENT.

17 DO YOU RELY UPON THAT?

18 MR. HERTZBERG: ABSOLUTELY, WE DO. WE HAVE DONE THAT
19 IN OUR MOVING PAPERS.

20 THE COURT: SO WE ARE NOW ORGANIZING THIS FOR THE
21 HEARING. SO THE SIXTH ITEM IS THE SETTLEMENT CONTRACT.

22 SO, PLEASE, SPECIFY THE PROVISIONS THERE THAT
23 YOU ARE RELYING ON.

24 MR. HERTZBERG: IT IS IN OUR MOVING PAPERS, BUT WE'LL
25 SAY IT A SECOND TIME.

26 THE COURT: BUT, YOU SEE, YOUR MOVING PAPERS WERE
27 FILED BEFORE THEY CONTESTED THE JURISDICTION.

28 MR. HERTZBERG: BUT WE WANTED YOUR HONOR TO KNOW YOU

1 HAD JURISDICTION.

2 THE COURT: THEY ARE A LITTLE CRITICAL OF THE CRYPTIC
3 WAY YOU COVERED THAT.

4 MR. HERTZBERG: THERE IS NOTHING CRYPTIC ABOUT IT.

5 THE COURT: IT WAS TWO LINES IN YOUR MOVING PAPERS.

6 NOW IS YOUR OPPORTUNITY TO EXPAND ON THAT.

7 SO WE'LL BE IN RECESS.

8
9 (UNRELATED MATTERS WERE HEARD BY THE
10 COURT.)

11
12 THE COURT: OKAY. WE ARE BACK ON THE RECORD.

13 NOW, I WILL GIVE YOU WHATEVER TIME YOU NEED.
14 BUT HAVING READ THESE, I THINK WE NEED TO CLARIFY, AS I
15 THINK HE TRIED TO DO AT THE BEGINNING, THE SEPARATENESS
16 OF THE VARIOUS THINGS THAT ARE REQUESTED HERE. AND THESE
17 ORDERS AND THE STIPULATION IN THE MINUTE ORDER READ TOGETHER
18 GIVE A FAIRLY CLEAR PICTURE THAT JUDGE BRECKENRIDGE PLAYED
19 NO ROLE IN SUPERVISING ANY OF THE DOCUMENTS AND READ THEM
20 WHEN HE WAS ASKED TO AND ULTIMATELY ORDERED, PURSUANT TO
21 STIPULATION OF THE PARTIES, THE FILE -- AND THERE WAS SOME
22 DISCUSSION ABOUT WHAT THAT MEANT -- SEALED.

23 HE SAID AT ONE POINT, "LOOK, WE CAN'T GO BACK.
24 OTHER PEOPLE HAVE LOOKED AT THIS FILE. I DON'T KNOW WHO
25 THEY ARE. WE CAN'T DO ANYTHING ABOUT THAT."

26 HE SAID, "THERE MAY BE TIMES IN THE FUTURE
27 WHEN OTHER DOCUMENTS WILL COME BACK FROM THE APPELLATE COURT
28 AND THERE MAY HAVE TO BE FURTHER ORDERS," BUT HE ULTIMATELY

1 SIGNED AN ORDER, I GUESS. I DON'T KNOW IF IT IS ACTUALLY
2 -- LET'S SEE -- YES. IT IS INCLUDED WITHIN THE STIPULATED
3 SEALING ORDER. HE ORDERED THE REMAINING RECORD OF THIS CASE
4 SAVE THE SPECIFIED ORDERS PLACED UNDER THE SEAL OF THE
5 COURT.

6 NOW, TO THE EXTENT THAT THAT IS NOTHING THAT
7 IS SOUGHT BY THE CHURCH, THE CHURCH ISN'T ASKING THAT THAT
8 BE CHANGED AT ALL; SO WE DON'T NEED TO DELVE INTO THAT IN
9 CONNECTION WITH YOUR MOTION.

10 MR. HERTZBERG: NO.

11 THE COURT: WHAT WE ARE DEALING WITH ON YOUR MOTION,
12 SPEAKING TO THE CHURCH, IS THE AGREEMENT WHICH IS CALLED--
13 REFERRED TO AS PARAGRAPH 2 OF THE ORDER DISMISSING ACTION
14 WITH PREJUDICE.

15 THEN IT SAYS, "AN EXECUTED DUPLICATE ORIGINAL
16 OF THE PARTIES' MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT
17 AGREEMENT FILED HEREIN UNDER SEAL SHALL BE RETAINED BY THE
18 CLERK OF THIS COURT UNDER SEAL."

19 NOW, IT IS THAT DOCUMENT, WE'LL CALL IT THE
20 SETTLEMENT AGREEMENT, THAT YOU SEEK RELIEF UNDER. AND THAT
21 DOCUMENT WASN'T BEFORE JUDGE BRECKENRIDGE ON DECEMBER 11.
22 AND HE DIDN'T ORDER IT PERFORMED.

23 SO WE NEED TO FIND -- SO YOU ARE NOT SEEKING
24 THE COURT TO EXERCISE THE CONTINUING JURISDICTION THAT I
25 HAVE BEEN TALKING ABOUT IN CONNECTION WITH THE CONFIDEN-
26 TIALITY OR THE SEALING ORDER. YOU ARE TALKING ABOUT SOME-
27 THING TOTALLY DIFFERENT?

28 MR. HERTZBERG: YOUR HONOR, LET ME DIRECT YOU PRECISELY

1 TO THE LANGUAGE WHICH SHOWS THAT IN OUR VIEW, WITHOUT
2 QUESTION, JUDGE BRECKENRIDGE KNEW THAT THIS COURT, IN HIS
3 PERSON IN THE FIRST INSTANCE AND HIS SUCCESSORS AS YOURSELF,
4 WERE GOING TO RETAIN JURISDICTION TO ENFORCE.

5 FIRST OF ALL, CONSIDERATION; THERE IS THE --
6 THE COURT: THE SETTLEMENT AGREEMENT ITSELF?

7 TO ENFORCE THE SETTLEMENT AGREEMENT?

8 MR. HERTZBERG: THAT IS CORRECT, THE SETTLEMENT
9 AGREEMENT WHERE THE PARTIES AGREE, AT PARAGRAPH 20, LOOKING
10 AT THE DOCUMENT YOUR HONOR JUST READ FROM WHICH IS SIGNED
11 BY JUDGE BRECKENRIDGE, THE ORDER DISMISSING THE ACTION WITH
12 PREJUDICE HAS VERY SIGNIFICANT LANGUAGE. AT THE TOP IT SAYS,
13 "UPON CONSIDERATION THE PARTIES STIPULATE FOR DISMISSAL AND
14 THE MUTUAL RELEASE OF ALL CLAIMS IN THE SETTLEMENT AGREEMENT,
15 THE ENTIRE RECORD HEREIN."

16 AND IT IS SO ORDERED. AND THE JUDGE.

17 THE COURT: LET ME INTERRUPT YOU BECAUSE THE RECORD
18 IS QUITE CLEAR THAT JUDGE BRECKENRIDGE DIDN'T HAVE BEFORE
19 HIM, QUOTE, MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT
20 AGREEMENT, END QUOTE, BECAUSE IT ISN'T IN THE FILE.

21 MR. HERTZBERG: I'LL SHOW YOU WHAT HE DID HAVE IN
22 FRONT OF HIM.

23 THE COURT: BUT YOU POINTED TO SOMETHING THAT WOULD
24 SUGGEST THAT JUDGE BRECKENRIDGE, UPON CONSIDERATION OF THAT
25 DOCUMENT, ENTERED THIS ORDER.

26 MR. HERTZBERG: I AM NOT SAYING THAT.

27 THE COURT: THE RECORD BELIES THAT.

28 WHY DID YOU EVEN READ IT?

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1 SAYS HE READ SAYS, "THIS COURT SHALL RETAIN JURISDICTION
2 AND MAY REOPEN THIS CASE AT ANY TIME."

3 OF COURSE, THAT EXPLAINS WHY THIS MINUTE ORDER
4 OF THE 11TH, WHICH YOUR HONOR WAS SO SCEPTICAL ABOUT WHEN
5 YOU SAW IT --

6 THE COURT: I AM NOT SCEPTICAL. I SAID IT DOESN'T
7 BEAR A SIGNATURE.

8 BACK UP A MINUTE. BECAUSE I HAVE LOST YOU
9 HERE.

10 THE JOINT STIPULATION OF DISMISSAL STATES --
11 THE LAST LINES SAY, "THIS COURT SHALL RETAIN JURISDICTION
12 AND MAY REOPEN THIS CASE AT ANY TIME FOR THE PURPOSE OF
13 ENFORCING SAID AGREEMENT."

14 NOW, WHAT DOES "SAID AGREEMENT" REFER TO?

15 MR. HERTZBERG: THE MUTUAL RELEASE OF ALL CLAIMS AND
16 SETTLEMENT AGREEMENT WHICH CONTAINS PARAGRAPH 20.

17 THE COURT: JUST A MINUTE. SO THAT IS THE AGREEMENT
18 THAT THE JUDGE DIDN'T HAVE AND STILL IS NOT IN THE FILE; IS
19 THAT RIGHT?

20 MR. HERTZBERG: FIRST OF ALL, IT IS IN THE FILE
21 BECAUSE IT WAS MADE PART OF THE PAPERS. NOW --

22 THE COURT: BUT THIS MOTION WAS NEVER IN THE FILE AND
23 WAS NOT BEFORE JUDGE BRECKENRIDGE WHEN HE SIGNED THE ORDER
24 THAT REFERS TO THIS STIPULATION.

25 MR. HERTZBERG: BUT WITH ALL DUE RESPECT --

26 THE COURT: IS THAT RIGHT OR NOT?

27 MR. HERTZBERG: YES.

28 THE COURT: SO WHAT YOU ARE SAYING IS THAT -- AND YOU

1 ARE TECHNICALLY CORRECT -- THAT THE PARTIES STIPULATED THAT
2 THIS COURT SHALL RETAIN JURISDICTION AND MAY REOPEN THIS
3 CASE AT ANY TIME FOR THE PURPOSE OF ENFORCING SAID AGREEMENT;
4 JUDGE BRECKENRIDGE DIDN'T SIGN THAT, BUT HE DID SIGN AN
5 ORDER PRESENTED TO HIM THE SAME DAY, AN ORDER DISMISSING
6 ACTION WITH PREJUDICE WHICH SAID THAT HE HAD CONSIDERED
7 THE STIPULATION FOR DISMISSAL WHICH CONTAINS THAT LANGUAGE
8 AND THAT HE HAD CONSIDERED THE MUTUAL RELEASE OF ALL CLAIMS,
9 WHICH HE DIDN'T HAVE BEFORE HIM, AND BASED THEREON, HE
10 ORDERED THE ACTION DISMISSED WITH PREJUDICE AND HE ORDERED
11 THAT THE MUTUAL RELEASE, SETTLEMENT AGREEMENT, SHOULD THEN
12 BE FILED WITH THE CLERK AND PUT UNDER SEAL.

13 SO THAT IS THE RECORD; THAT IS WHAT HAPPENED?

14 MR. HERTZBERG: THAT IS THE RECORD.

15 THE COURT: BUT YOU DO NOT FIND ANY PLACE WHERE HE
16 SIGNED ANY DOCUMENT SAYING THAT THE COURT RETAINED JURIS-
17 DICTION TO ENFORCE THE AGREEMENT; THAT WASN'T BEFORE HIM?

18 MR. HERTZBERG: YOUR HONOR, I RESPECTFULLY SUBMIT
19 THAT WE ARE NOW -- I DON'T KNOW HOW TO PUT THIS -- I SUBMIT
20 -- MAY I RESPECTFULLY SUGGEST TO THE COURT IT IS NOT
21 NECESSARY FOR JUDGE BRECKENRIDGE TO HAVE KNOWN EVERY SINGLE
22 TERM IN THE AGREEMENT IF, INDEED, HE DIDN'T KNOW EVERY TERM
23 IN THE AGREEMENT. AND I DON'T KNOW WHAT WE CAN INFER OR NOT
24 INFER ABOUT THAT BECAUSE MINISTERIALLY, IT WASN'T SUBMITTED
25 TO THE JUDGE CONCURRENTLY.

26 HE UNDERSTOOD WHAT IS CLEARLY BEYOND DISPUTE,
27 THAT IRRESPECTIVE OF WHAT HE KNEW OR DIDN'T KNOW ABOUT THE
28 SPECIFIC TERMS, HE RELATED THAT HE KNEW THAT THE COURT WAS

1 GOING TO RETAIN JURISDICTION; THAT IT WAS A CONDITION THAT
2 WAS BROUGHT TO HIS ATTENTION AS LATER REFLECTED ALSO IN THE
3 MINUTE ORDER.

4 THE COURT: YOU HAVE TO BE MORE PRECISE; "RETAIN
5 JURISDICTION" IS A BROAD TERM.

6 CLEARLY, HE WAS RETAINING JURISDICTION WITH
7 REGARD TO THE SEALING ORDER. BUT TO RETAIN JURISDICTION
8 TO ENFORCE THE AGREEMENT HAS TO COME TO SOMETHING OTHER THAN
9 SOMETHING HE SIGNED BECAUSE HE, PRESUMABLY, KNEW THAT THE
10 PARTIES HAD AGREED THAT THE COURT WOULD RETAIN JURISDICTION.

11 MR. HERTZBERG: IT SAYS --

12 THE COURT: BUT THE PARTIES DIDN'T ASK HIM TO MAKE
13 THAT ORDER AND THEREFORE IT IS A BIT OF A STRETCH TO SAY
14 THAT THERE HAS EVER BEEN AN ORDER PRIOR TO WHAT YOU ARE
15 SEEKING IN THIS CASE ENFORCING OR RETAINING JURISDICTION TO
16 ENFORCE THE SETTLEMENT AGREEMENT.

17 MR. HERTZBERG: I DON'T AGREE. BUT WE CAN GO AROUND
18 AND AROUND ON THIS.

19 I WANT TO POINT OUT ONCE MORE THAT THE DOCU-
20 MENT THAT HE CITED ON THE 11TH AS HAVING READ AND TAKEN INTO
21 ACCOUNT EMPHATICALLY STATES THAT HE WOULD RETAIN JURISDICTION
22 FOR PURPOSES OF ENFORCING THE AGREEMENT.

23 THE COURT: IT DOESN'T SAY "HE"; IT SAYS THIS COURT.
24 THERE IS A BIG DIFFERENCE.

25 MR. HERTZBERG: THAT INCLUDES YOU.

26 SECONDLY, THE MINUTE ORDER IS ENTIRELY
27 CONSISTENT WITH THAT. IT UNAMBIGUOUSLY SAYS THE COURT
28 RETAINS JURISDICTION TO ENFORCE A SETTLEMENT AGREEMENT.

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1 MY POINT IS THIS IT'S FURTHER PROOF THAT HE READ
2 THE WHOLE THING. HE WAS COGNIZANT OF IT AND HE KNEW THAT
3 THIS COURT HAD RETAINED JURISDICTION TO ENFORCE DISPUTES
4 OVER THE SETTLEMENT AGREEMENT WHICH WAS THE INTENT OF THE
5 PARTIES.

6 THE COURT: HERE IS THE DISTINCTION:

7 CAN PARTIES IN THAT AGREEMENT CONFER JURIS-
8 DICTION ON THE COURT TO ENFORCE AN AGREEMENT, OR DOES THAT
9 NEED TO COME FROM AN ORDER SIGNED BY THE COURT?

10 I THINK THAT IF PARTIES CAN DO THAT, THEN WE
11 HAVE REALLY OPENED UP A NEW PANDORA'S BOX HERE.

12 MR. HERTZBERG: BUT I AM NOT SAYING THAT. I AM NOT
13 SAYING THE PARTIES CAN UNILATERALLY ON THEIR OWN CONFER
14 JURISDICTION ON THE COURT.

15 WHAT I AM SAYING IS THE PARTIES AGREED; IT WAS
16 THEIR INTENTION AND IT WAS REFLECTED THAT THE COURT DID
17 AGREE.

18 THE COURT: THE COURT READ IT AND THEN THE COURT SAID
19 IN AN ORDER OBVIOUSLY PREPARED FOR HIS SIGNATURE, THE COURT
20 SAID, "UPON CONSIDERATION OF THE PARTIES' STIPULATION FOR
21 DISMISSAL, THE MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT
22 AGREEMENT AND THE ENTIRE RECORD HEREIN. IT IS ORDERED AND
23 ADJUDGED." I MEAN, YOU KNOW, HE OBVIOUSLY DIDN'T READ THE
24 MUTUAL RELEASE. IT WASN'T THERE. IT IS LIKELY HE DIDN'T
25 READ THE ENTIRE RECORD AND CONSIDER IT ON THIS DATE. SO
26 BASICALLY, THIS WAS A FORM ORDER THAT HE SIGNED. AND
27 IT DOESN'T SAY ANYTHING ABOUT RETAINING JURISDICTION.

28 WHAT IT DOES IS IT REFERS TO THE FACT -- IT

1 GIVES YOU A GOOD PLACE TO ARGUE THAT HE READ AND CONSIDERED
2 ANOTHER DOCUMENT THAT WAS PRESENTED TO HIM THAT DAY AND THAT
3 IS THE JOINT STIPULATION OF DISMISSAL WHICH DOES SAY THAT
4 THE PARTIES AGREE THAT THIS COURT SHALL RETAIN JURISDICTON
5 AND MAY REOPEN THIS CASE AT ANY TIME FOR THE PURPOSE OF
6 ENFORCING SAID AGREEMENT, MEANING THE SETTLEMENT AGREEMENT.

7 NOW YOU ARE SAYING THAT THIS CONSTITUTES AN
8 ORDER BY JUDGE BRECKENRIDGE THAT THE COURT RETAINS JURIS-
9 DICTION.

10 I AM RESPECTFULLY DIFFERING ON THAT.

11 MR. HERTZBERG: YOUR HONOR, THERE ARE SEVERAL RESPONSES
12 TO THAT.

13 FIRST OF ALL, WE HAVE GIVEN YOU ALSO THE
14 MINUTE ORDER WHICH IS HARD TO IGNORE, IN MY VIEW, WHERE IT
15 IS MADE CLEAR, A MINUTE ORDER OF THE COURT, THAT THE COURT
16 RETAINS JURISDICTION TO ENFORCE A SETTLEMENT AGREEMENT.

17 THE COURT: I'M SORRY, BUT WE CAN'T GO BACK. WE HAVE
18 THE TRANSCRIPT OF THAT DAY. IT IS THE WHOLE TRANSCRIPT;
19 RIGHT?

20 MS. PLEVIN: YES.

21 MR. HERTZBERG: YES, THE TRANSCRIPT HAS NOTHING --

22 THE COURT: WHAT HAPPENS IN A COURT, AS WE ALL KNOW,
23 IS WE HAVE A REPORTER AND HE TRANSCRIBES EVERYTHING THAT IS
24 SAID AND THE CLERK, BASED ON THAT AND USUALLY BASED ON WHAT
25 THE JUDGE TELLS HER OR HIM TO PUT IN THE MINUTE ORDER PUTS
26 IT IN THE MINUTE ORDER AT THE CONCLUSION OF THE HEARING.
27 BUT BASICALLY THE BEST EVIDENCE OF WHAT HAPPENS IN THE FORMAL
28 HEARING IS THE REPORTER'S TRANSCRIPT.

1 NOW, THE MINUTE ORDER IS A REFLECTION OF THE
2 CONCLUSION OF THE HEARING IN THE NORMAL COURSE OF EVENTS.
3 BUT WE DON'T FIND ANYTHING IN THE TRANSCRIPT WHICH CONTAINS
4 THE JUDGE ORDERING FROM THE BENCH THAT JURISDICTION SHALL
5 BE RETAINED TO ENFORCE THE AGREEMENT. SO IT IS REALLY NOT,
6 IN MY VIEW, AN ORDER OF THE COURT UNLESS THE JUDGE MAKES IT
7 FROM THE BENCH ON THE RECORD OR HE SIGNS A DOCUMENT.

8 MS. PLEVIN: IF I MAY ADDRESS THAT --

9 MR. HERTZBERG: I STILL HAVE THE FLOOR.

10 MS. PLEVIN: I HAVE A 60-SECOND COMMENT THAT I THINK
11 WOULD HELP CLARIFY THIS.

12 MR. HERTZBERG HAS MADE THE ASSUMPTION -- AND
13 I BELIEVE IT IS ONLY AN ASSUMPTION -- THAT THE COMMENT WHICH
14 HE POINTED TO ON PAGE 2, "I HAVE READ THE PROPOSED STIPU-
15 LATION," NECESSARILY RELATES, IN MR. HERTZBERG'S MIND, TO
16 THE JOINT STIPULATION OF DISMISSAL WHICH HAS THE LANGUAGE
17 ON WHICH THE MOVING PARTIES ARE RELYING.

18 BUT YOU WILL NOTE IN THAT VERY SECTION, HIS
19 COMMENTS, "THEN MOVE ON TO THE ISSUE OF THE SEALING ... "
20 I SUBMIT THAT IT IS MORE LIKELY THAT WHAT HE WAS REFERRING
21 TO AT THAT MOMENT WAS THE JOINT STIPULATION WITH RESPECT TO
22 THE SEALING.

23 THERE IS NO INDICATION THERE THAT THAT WAS THE
24 ONE HE WAS REFERRING TO. THE ONLY OTHER REFERENCE AT ALL,
25 THERE WAS NO DISCUSSION IN THIS TRANSCRIPT WHATSOEVER ABOUT
26 THE CONDITIONS ATTACHED OF THE KIND THEY ARE SEEKING TO
27 ENFORCE, INCLUDING THE CONDITION THAT THE ENTIRE SETTLEMENT
28 AGREEMENT BE MADE A COURT ORDER. THERE IS SIMPLY NO

1 DISCUSSION, AS YOUR HONOR FULLY UNDERSTANDS.

2 MR. HERTZBERG: I'LL MOVE ON.

3 I WOULD JUST MAKE THIS OBSERVATION ABOUT THE
4 TRANSCRIPT. I THINK THIS COURT, ESPECIALLY WHEN THIS MINUTE
5 ORDER IS CONSISTENT WITH THE OTHER DOCUMENTS, I THINK THAT
6 THIS COURT HAS TO ASSUME THAT THE JUDGE SAID THAT AND THAT
7 WHOEVER PREPARED THIS MINUTE ORDER WHO, OF COURSE, IS AN
8 OFFICER OF SOME COURT, NOT ONE OF THE LAWYERS, DIDN'T INVENT
9 OUT OF WHOLE CLOTH THE STATEMENT THAT THE COURT WAS
10 RETAINING JURISDICTION.

11 IT IS POSSIBLE THAT JUDGE BRECKENRIDGE SAID
12 IT OFF THE RECORD.

13 IT IS POSSIBLE THAT THE TRANSCRIBER MISSED
14 THAT PORTION BECAUSE, AFTER ALL, THAT PARTICULAR HEARING HAD
15 TO DO WITH THE MECHANICS OF DEALING WITH THE SEALED DOCUMENTS.

16 MS. PLEVIN: THE ONLY THING WAS THE SETTLEMENT AGREEMENT.

17 MR. HERTZBERG: PLEASE, I DON'T WANT TO BE INTERRUPTED.
18 I DIDN'T INTERRUPT YOU.

19 THE COURT: MAYBE YOU SHOULD HOLD YOUR HAND UP.

20 MR. HERTZBERG: THAT IS CONSUMATE RUDENESS, YOUR
21 HONOR.

22 THE COURT: BUT WE WON'T LEAVE THAT UNCHALLENGED.

23 WHAT YOU ARE SAYING IS THAT JUDGE BRECKENRIDGE
24 MAY HAVE MADE AN ORDER TO THE CLERK NOT ON THE RECORD.

25 I SUGGEST TO YOU THAT IF HE DID THAT, HE WOULD
26 HAVE TO SIGN AN ORDER TO MAKE IT A COURT ORDER. THE CONVER-
27 SATION BETWEEN THE JUDGE AND THE CLERK AS TO WHAT GOES INTO
28 THE MINUTE ORDER DOES NOT CONSTITUTE A COURT ORDER AND

1 ESPECIALLY WHEN YOU HAVE A TRANSCRIPT OF WHAT HAPPENED
2 DURING THE HEARING.

3 MR. HERTZBERG: I WANT TO MAKE TWO OTHER POINTS BEFORE
4 I MOVE ON ON THIS. ONE OF THEM IS THERE IS NO EVIDENCE
5 THAT JUDGE BRECKENRIDGE DID NOT HAVE THE AGREEMENT IN FRONT
6 OF HIM.

7 THE COURT IS MAKING A MAJOR FOCAL POINT OF THE
8 FACT THAT MINISTERIALLY THE SETTLEMENT AGREEMENT WAS NOT
9 FILED SUBSEQUENTLY WITH THE CLERK OF THE COURT. THAT DOES
10 NOT MEAN, AND THIS COURT CANNOT, IN OUR VIEW, CONCLUDE THAT
11 THE COURT DID NOT HAVE THE SETTLEMENT AGREEMENT IN FRONT OF
12 IT AND WAS NOT AWARE OF THE ENTIRETY OF ITS TERMS.

13 I JUST WANTED TO POINT OUT THAT JUST BECAUSE
14 WE DIDN'T FILE IT WITH THE CLERK DOES NOT MEAN THAT JUDGE
15 BRECKENRIDGE DIDN'T KNOW EVERY WORD THAT WAS IN THAT SETTLE-
16 MENT AGREEMENT.

17 THE COURT: IT DOES NOT MEAN THAT HE DID EITHER.

18 AND I'LL SAY THIS: THAT IN MY EXPERIENCE --
19 AND IT MAY NOT BE THE SAME AS EVERYBODY ELSE'S -- WHEN
20 PARTIES OR LAWYERS WANT A JUDGE TO ORDER THE PERFORMANCE OF
21 THE SETTLEMENT AGREEMENT, THEY BRING IT IN.

22 WITH THE LITTLE CRYPTIC PHRASE, "IT IS SO
23 ORDERED AT THE END OF THE AGREEMENT, THAT RAISES ALL SORTS
24 OF CONCERNS WITH ME. MAYBE EARLIER, 15 YEARS AGO, I MIGHT
25 HAVE DONE IT A COUPLE OF TIMES.

26 WHEN I REALIZED WHAT KIND OF PROBLEM THAT WAS,
27 I SIMPLY DON'T DO IT ANYMORE. IF THEY WANT AN ORDER OF SOME
28 OF THE TERMS, THEN I HAVE THEM SPELL OUT WHAT OF THE TERMS

1 THEY CONSIDERED TO BE APPROPRIATE FOR THE COURT ORDER AND
2 THEN I GO OVER THEM AND SAY IS THIS REALLY SOMETHING THAT
3 IS THE BUSINESS OF THE COURT TO BE ORDERING AND ENFORCING
4 WITH CONTEMPT OR NOT?

5 AND I MAKE SURE THAT IT IS THE KIND OF CLEAR
6 AND CONCISE ORDER THAT CAN BE THE SUBJECT OF A CONTEMPT
7 PROCEEDING. SO MY BELIEF IS JUDGE BRECKENRIDGE, BEING A VERY
8 CAREFUL JUDGE, FOLLOWS ABOUT THE SAME PRACTICE AND IF HE HAD
9 BEEN PRESENTED THAT WHOLE AGREEMENT AND IF HE HAD BEEN ASKED
10 TO ORDER ITS PERFORMANCE, HE WOULD HAVE DUG HIS FEET IN
11 BECAUSE THAT IS ONE OF THE -- I HAVE SEEN -- I CAN'T SAY --
12 I'LL SAY ONE OF THE MOST AMBIGUOUS, ONE-SIDED AGREEMENTS I
13 HAVE EVER READ. AND I WOULD NOT HAVE ORDERED THE ENFORCEMENT
14 OF HARDLY ANY OF THE TERMS HAD I BEEN ASKED TO, EVEN ON THE
15 THREAT THAT, OKAY, THE CASE IS NOT SETTLED.

16 I KNOW WE LIKE TO SETTLE CASES. BUT WE DON'T
17 WANT TO SETTLE CASES AND, IN EFFECT, PROSTRATE THE COURT
18 SYSTEM INTO MAKING AN ORDER WHICH IS NOT FAIR OR IN THE
19 PUBLIC INTEREST.

20 SO BASICALLY, I HAVE TO CONCLUDE BASED ON THE
21 RECORD THAT THERE WAS NO ORDER; SIMPLY, HE WASN'T PRESENTED
22 THE ORDER. HE WAS NOT ASKED TO ORDER ITS PERFORMANCE. HE
23 DIDN'T ORDER ITS PERFORMANCE.

24 THE FIRST TIME THAT WOULD BE DONE WOULD BE IN
25 RESPONSE TO YOUR MOTION AT THIS TIME.

26 MR. HERTZBERG: JUDGE, LET ME RESPOND TO THAT.

27 FIRST OF ALL, I THINK YOUR HONOR KNOWS WE ARE
28 NOT CLAIMING THAT JUDGE BRECKENRIDGE SO ORDERED THE TERMS

1 OF THE AGREEMENT. ALL WE ARE SAYING, AND WE ARE NOT ASKING
2 FOR CONTEMPT RULING FROM THIS COURT --

3 THE COURT: BUT WAIT A MINUTE. BECAUSE THAT IS A
4 DISTINCTION WITHOUT A DIFFERENCE.

5 IF HE HAD ORDERED THAT THE COURT RETAIN JURIS-
6 DICTION TO ENFORCE THE AGREEMENT, HE IS DOING THE SAME THING
7 BECAUSE HE IS SAYING BRING YOUR PROBLEMS TO ME; I WILL THEN
8 READ THE AGREEMENT; I WILL THEN DECIDE WHAT TO DO BY WAY OF
9 ENFORCING. AND IF THE AGREEMENT IS AMBIGUOUS, THEN HE HAS
10 PUT ON THE COURT THE CONCEPT OF, IN EFFECT, ENFORCING
11 THE AGREEMENT THAT HE, EVIDENTLY, HADN'T SEEN.

12 MR. YANNY: YOUR HONOR, I DON'T KNOW WHAT THE NATURE
13 OF YOUR PRIVATE PRACTICE WAS, BUT MINE HAS BEEN A LITTLE BIT
14 OF TRANSACTION AND A LITTLE BIT OF LITIGATION. ONE OF THE
15 THINGS THAT I HAVE FOUND, AND IT IS FAIRLY STANDARD IN
16 AGREEMENTS WHERE PARTIES ARE AGREEING TO DO A VARIETY OF
17 THINGS, INCLUDING JURISDICTION, THAT THEY AGREE TO PERSONAL
18 JURISDICTION OVER PARTIES.

19 AND THAT MAY VERY WELL HAVE BEEN WHAT WAS
20 CONTEMPLATED, AT LEAST, FROM MR. ARMSTRONG'S POINT OF VIEW.

21 HE DEPARTED THE JURISDICTION OF THIS COURT
22 AND --

23 THE COURT: WHAT IS YOUR POINT?

24 MR. YANNY: THE COURT MAY HAVE SIMPLY BEEN TRYING TO
25 SAY THAT EVEN THOUGH ACTION MAY HAVE OCCURRED OUTSIDE THE
26 JURISDICTION OF CALIFORNIA, THE PARTIES, BY WAY OF SETTLE-
27 MENT, MAY HAVE AGREED TO PERSONAL JURISDICTION AS OPPOSED
28 TO --

1 THE COURT: THAT IS ONE OF THE PROBLEMS OF A CRYPTIC
2 STATEMENT IN AN AGREEMENT AND NOT IN AN ORDER. I DON'T
3 KNOW WHAT IT MEANT.

4 MR. HERTZBERG: I JUST WANT TO HAND ONE MORE DOCUMENT
5 UP TO YOU AND MAKE THIS PART OF THE RECORD.

6 MR. ARMSTRONG TOLD THE COURT OF APPEAL HE
7 THOUGHT LOS ANGELES SUPERIOR COURT RETAINED JURISDICTION.

8 MAY THE RECORD REFLECT THAT IN HIS APPELLATE
9 BRIEF TO THE COURT OF APPEAL DATED FEBRUARY 21ST, 1990 WITH
10 THE SIGNATURE OF GERALD ARMSTRONG BEGINNING AT THE BOTTOM
11 OF PAGE 2 AND THE TOP OF PAGE 3, THE TITLE IS "DEFENDANT'S
12 PETITION FOR PERMISSION TO FILE RESPONSE AND TIME TO FILE."

13 MR. ARMSTRONG SAYS "INTER ALIA, I'LL BE
14 ADDRESSING AS SOON AS POSSIBLE MY MOTION -- " HE IS NOW
15 TELLING THIS TO THE COURT OF APPEAL -- "OR OTHER APPROPRIATE
16 ACTION IN THE LOS ANGELES SUPERIOR COURT WHICH RETAINS
17 PURSUANT TO CLAUSE 20 OF THE SETTLEMENT AGREEMENT JURIS-
18 DICTION TO ENFORCE ITS TERMS."

19 THIS IS TO ANSWER A QUESTION, LEST THERE BE
20 ANY DOUBT AS TO WHAT MR. ARMSTRONG THOUGHT, WHAT JUDGE
21 BRECKENRIDGE'S UNDERSTANDING OR ANYONE ELSE'S UNDERSTANDING
22 OF THE CONTINUING ROLE OF THIS COURT.

23 NOW, I WANT TO MOVE ON.

24 MS. PLEVIN: WE CAN'T MOVE ON. I NEED TO RESPOND TO
25 THAT.

26 THE COURT: NOW WE'LL HEAR FROM MR. ARMSTRONG'S
27 COUNSEL.

28 MS. PLEVIN: ON THAT POINT, IT ONLY GOES TO THE

1 CONCEPT THAT THE PARTIES ARE UNDER THE MISAPPREHENSION
2 THAT THEY COULD CONFER JURISDICTION BY MERELY PUTTING IT IN
3 THEIR SETTLEMENT AGREEMENT.

4 THAT IS THE ERRONEOUS CONCEPT UPON WHICH A
5 LOT OF THE MOVING PARTIES' ARGUMENTS SEEMS TO BE BASED.

6 MR. ARMSTRONG, NOT AN ATTORNEY WRITING THIS
7 IN PRO PER, HAD NO REASON TO QUESTION WHETHER IT WAS OR WAS
8 NOT THE LEGITIMATE EFFECT OF CONFERRING JURISDICTION.

9 THE COURT: YOU HAVE MADE YOUR POINT. I THINK IT IS
10 AN APPROPRIATE TIME -- TELL ME IF YOU ARE THROUGH ON THE
11 RETAINING JURISDICTION POINT; ARE YOU?

12 MR. HERTZBERG: YES.

13 THE COURT: NOW, I THINK YOU HAVE NOW BEEN WANTING TO
14 PUT YOUR POSITION FORWARD AS TO THE BASIS FOR JURISDICTION
15 OF THE COURT. AND I INITIALLY REFERRED TO 664.6 WHICH REFERS
16 TO --

17 MR. HERTZBERG: I HAVE ONE MORE POINT FOR THE RECORD.

18 I SAID YES PRECIPITOUSLY.

19 WE RELY NOT ONLY ON THE DOCUMENTS AND ARGUMENTS
20 MADE SO FAR, BUT ALSO ON THE INHERENT JURISDICTION OF THIS
21 COURT TO ENFORCE IN A SETTLEMENT AGREEMENT WHERE THERE IS
22 A CLAIM THAT THE PARTIES THAT WERE BEFORE THIS COURT
23 PROPERLY SETTLED THE CASE AND THERE HAVE BEEN BREACHES OF
24 THE KIND AND VIOLATIONS OF THE AGREEMENT OF THE KIND THAT
25 WE ALLEGE HERE AND THIS ARGUMENT STANDS APART AND SEPARATELY
26 FROM THE ARGUMENTS WE HAVE MADE PREVIOUSLY TO THE COURT
27 EXPLICITLY IN THESE VARIOUS DOCUMENTS WE HAVE BEEN DEBATING
28 ABOUT THAT IT HAD CONTINUING JURISDICTION.

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1 DIDN'T HERE, FOR SETTLEMENT OF THE CASE OR PART THEREOF, THE
2 COURT, UPON MOTION, MAY ENTER JUDGMENT PURSUANT TO THE
3 TERMS OF THE SETTLEMENT.

4 MS. PLEVIN: LET ME ADDRESS THAT, YOUR HONOR.

5 I THINK THERE ARE SEVERAL FACTORS IN THAT
6 SECTION WHICH DETERMINES OR ARE QUITE CONCLUSIVE THAT THAT
7 DOES NOT APPLY TO THE PRESENT PROCEEDINGS AND THE SETTLEMENT
8 AGREEMENT AND IN THIS CASE.

9 NUMBER ONE, IT SAYS THAT THE COURT MAY ENTER
10 IT UPON MOTION.

11 NUMBER TWO, IT WILL BE ENTERED AS A JUDGMENT.

12 WE KNOW FROM THE TRANSCRIPT OF DECEMBER 11,
13 1986 SEVERAL THINGS; THAT WAS THE EXPLANATION TO THE COURT;
14 THAT WAS THE FORMALIZATION OF THE FACT THAT THIS WAS A
15 SETTLEMENT; IT WAS BRINGING TO JUDGE BRECKENRIDGE; DEAR
16 JUDGE, WE DON'T HAVE TO GO TO TRIAL; AREN'T YOU HAPPY?
17 LET ME OUT OF HERE.

18 AND IT WAS THE REVIEW OF THOSE UNIQUE ORDERS,
19 THE SEALING ORDER, THE ORDER WITH RESPECT TO THE RETURN OF
20 EXHIBITS AND SO FORTH THAT REQUIRED SPECIFICALLY THE COURT'S
21 ATTENTION THAT COULD NOT BE SUMMARILY DEALT WITH BY THE
22 PARTIES THEMSELVES.

23 THEY COULD SIGN A SETTLEMENT AGREEMENT THEM-
24 SELVES; THEY COULD FILE VOLUNTARY DISMISSALS; THEY DID NOT
25 HAVE TO COME TO COURT TO DO THAT.

26 THEY HAD TO COME TO COURT, HOWEVER, TO TAKE
27 CARE OF CERTAIN OTHER DETAILS THAT WERE PURPORTEDLY A PART
28 OF THE AGREEMENT. AND THEY DID SO. THERE WAS NO MOTION.

1 IT WAS AN ANNOUNCEMENT TO THE COURT THIS IS WHAT WE HAVE;
2 WE HAVE A SETTLEMENT. THIS IS WHAT WE HAVE STIPULATED TO
3 AND, THUS, THE DECEMBER 11, 1986 TRANSCRIPT IS VERY, VERY
4 REVEALING.

5 THE COURT: WAIT. LET'S ASSUME THAT YOU ARE RIGHT
6 AND THAT THERE IS NO BASIS, FROM WHAT JUDGE BRECKENRIDGE
7 DID, FOR A CONTINUING JURISDICTION OF THE COURT TO ENFORCE
8 THE SETTLEMENT AGREEMENT AS CONTRASTED WITH DEALING WITH THE
9 SEALING AGREEMENT.

10 NOW, ALTHOUGH, FRANKLY, I GUESS THE SEALING
11 AGREEMENT IS A SPECIFIC TERM OF THE SETTLEMENT AGREEMENT,
12 BUT WE ARE DEALING WITH OTHER TERMS.

13 MS. PLEVIN: IT WAS A SEPARATE ORDER WITH RESPECT TO
14 SEALING.

15 THE COURT: LET'S ASSUME YOU ARE RIGHT ON THAT AND IN
16 1986 THAT CHAPTER WAS HARD AND CLOSED; NOW WE ARRIVE HERE
17 IN 1991. NOW THERE IS A MOTION AND THE MOTION SEEKS
18 ENFORCEMENT OF THE SETTLEMENT AGREEMENT.

19 I TAKE IT THE MOVING PARTY IS RELYING IN PART,
20 AT LEAST, ON 664.6.

21 MS. PLEVIN: I DON'T BELIEVE SO, YOUR HONOR. I DON'T
22 BELIEVE IT WAS IN THEIR PAPERS AT ALL. THEY RELY IN THEIR
23 PAPERS ON --

24 MR. HERTZBERG: WE DO RELY ON IT, YOUR HONOR.

25 MS. PLEVIN: AS A RESULT OF THE COMMENTS THIS MORNING,
26 IT WAS NOT IN THEIR PAPERS.

27 127(A)4 GIVES THE COURT THE INHERENT JURIS-
28 DICTION TO ENFORCE AN ORDER AND JUDGMENT AND PROCESS. THAT

MS. PLEVIN: UNLESS THE COURT RETAINED JURISDICTION

1 IN 1986, THERE ARE NO PROCEEDINGS FOR THE COURT NOW TO OPEN
2 UP THE ISSUE OF WHETHER TO ENTER IT AS A JUDGMENT.

3 IT HAS TO BE PENDING LITIGATION, YOUR HONOR.
4 IF YOU LOOK AT 664.6, IT REQUIRES THAT THE PARTIES MUST --
5 IF PARTIES TO PENDING LITIGATION STIPULATE, ACCORDINGLY, IT
6 APPLIES ONLY AT THE TIME; THAT IS CURRENT LITIGATION.

7 THE COURT: SEE IF THIS ISN'T A LOGICAL READING OF
8 664.6:

9 "IF THE PARTIES TO LITIGATION WHILE
10 IT IS PENDING STIPULATE IN WRITING FOR SETTLEMENT
11 OF THE CASE, THE COURT, UPON MOTION AT ANY TIME,
12 MAY ENTER JUDGMENT OR ORDER PURSUANT TO THE TERMS
13 OF THE STIPULATION."

14 NOW, I HAVE ADDED "OR ORDER"; IN OTHER WORDS,
15 IT IS FAIRLY STANDARD THAT THE PARTIES WILL ENTER INTO A
16 STIPULATION, FOR EXAMPLE, THE CASE IS SETTLED; WE AGREE TO
17 TAKE \$100,000, \$10,000, YOU KNOW, DOWN AND SO MUCH OVER A
18 PERIOD OF TIME AND THEN IF YOU DON'T PAY, JUDGMENT WILL BE
19 ENTERED IN THIS AMOUNT OR THAT AMOUNT.

20 AND THEN THE CASE IS DISMISSED OR, ACTUALLY,
21 IF THERE IS A QUESTION WHETHER THE CASE IS REALLY DISMISSED
22 UNDER THE SITUATION, IT IS USUALLY --

23 MS. PLEVIN: EXACTLY.

24 THE COURT: YOU ARE SAYING THAT IF A JUDGMENT IS
25 ENTERED OR A DISMISSAL IS ENTERED, THEN --

26 MS. PLEVIN: IT TERMINATES THE PROCEEDING AND THERE
27 IS NO PENDING LITIGATION.

28 IN YOUR SCENARIO, YOUR HONOR, THE DISMISSAL

1 IS NOT GOING TO BE FILED UNTIL THE JUDGMENT IS COMPLETELY
2 PAID OR THE SETTLEMENT AGREEMENT IS COMPLETELY PAID. AT
3 THAT POINT THE DISMISSAL IS FILED AND THERE IS NO PENDING
4 LITIGATION.

5 THE COURT: I GUESS THE OTHER POINT YOU ARE MAKING
6 IS IF THE CASE IS DISMISSED, YOU CAN'T HAVE A JUDGMENT.

7 MS. PLEVIN: CORRECT.

8 THE COURT: YOU SIMPLY CAN'T HAVE A JUDGMENT AFTER A
9 DISMISSAL.

10 MS. PLEVIN: THAT IS CORRECT.

11 NOW, MY ARGUMENT AND MY THEORY ABOUT THIS
12 THAT I THINK IS GROUNDED IN THIS CASE AND IN OTHERS IS
13 BACKED UP BY THE ANALYSIS GIVEN IN THE FEW CASES THAT EXIST
14 ON 664.6 AND I BELIEVE, ALSO, THE NOTES IN THE ANNOTATIONS
15 WHICH WENT TO THE ISSUE THAT THIS WAS PROVIDED -- THIS WAS
16 ENACTED SPECIFICALLY BECAUSE WHEN THE PARTIES TO A SETTLEMENT
17 AGREEMENT WHICH REQUIRED, TYPICALLY, THE PAYMENT OF MONEY
18 IN EXCHANGE FOR THE DISMISSAL AND SO FORTH, DID NOT ACTUALLY
19 FOLLOW THROUGH ON THAT, HOW DID THE PARTIES ENFORCE THE
20 SETTLEMENT AGREEMENT. AND IT ANTICIPATED THAT WE ARE
21 DEALING WITH THE RESOLUTION OF THE PENDING LITIGATION PRIOR
22 TO THE ENTRY OF DISMISSAL. I THINK THAT IS VERY CLEAR IN THE
23 HISTORY AND QUITE CLEAR ALSO IN THE LANGUAGE.

24 IT BEGS LINGUISTIC LOGIC TO TALK ABOUT ON THE
25 ON THE HAND THAT THE LITIGATION MUST BE PENDING AND ON THE
26 OTHER HAND, TO COME IN FIVE, TEN YEARS LATER AND SAY OH,
27 NOW WE WANT TO REDUCE IT TO A JUDGMENT. YOU CAN'T.

28 THE COURT: I THINK A BETTER WAY TO MAKE THE POINT IS

1 THAT IF A SETTLEMENT AGREEMENT CALLS FOR A JUDGMENT TO BE
2 ENTERED, THEN UNLESS THE JUDGMENT IS ENTERED, IT IS PENDING
3 AND 664.6 APPLIES.

4 BUT IF THE SETTLEMENT AGREEMENT CALLS FOR A
5 DISMISSAL AND THE CASE IS THEN DISMISSED, THEN HOW CAN YOU
6 HAVE A JUDGMENT?

7 YOU CAN READ THIS SECTION AS SAYING YOU CAN
8 STILL HAVE AN ORDER; IN OTHER WORDS, THE AGREEMENT MIGHT
9 CALL FOR A DISMISSAL. AND THE CASE MIGHT BE DISMISSED. BUT
10 THE AGREEMENT, HAVING BEEN ENTERED INTO WHILE THE CASE WAS
11 PENDING, THEN THE COURT UNDER 664 COULD ISSUE AN ORDER
12 ENFORCING, YOU KNOW, THE LATER PAYMENT OF THE MONEY OR
13 WHATEVER.

14 NOW, ONE OF THE PROBLEMS THAT WE OPEN UP
15 IS THE KIND OF PROBLEM THAT WE ARE NOW DEALING WITH HERE;
16 THAT YOU COULD HAVE ALL SORTS OF PROVISIONS IN THOSE SETTLE-
17 MENT AGREEMENTS SUCH AS CONFIDENTIALITY, NOT A SEALED COURT
18 RECORD, BUT EVERYBODY WILL MAINTAIN EVERYTHING CONFIDENTIAL;
19 NEVER GIVE A PRESS RELEASE; I'LL DO MY BEST TO GET YOU A JOB
20 ELSEWHERE, LOTS OF THINGS THAT A PARTY CAN COME INTO COURT
21 AND SAY WE ENTERED INTO THE SETTLEMENT; PAID \$10,000;
22 DISMISSED THE CASE. THE PLAINTIFF DISMISSED THE CASE, BUT
23 LOOK AT THE FOURTH PAGE IN THE FIFTH PARAGRAPH; THEY NEVER
24 DID THAT, JUDGE. SO WE DON'T NEED TO GO TO COURT AND FILE
25 AN ACTION UNDER 664.

26 MS. PLEVIN: THEY ARE BARRED. IT IS NO LONGER PENDING.

27 THE COURT: MY POINT IS UNDER 664, IF WE READ IT IN
28 EFFECT THE WAY THE MOVING PARTY IS READING IT, THEN WE ARE

1 OPENING UP A WHOLE NEW AREA HERE OF JUDICIAL HEARINGS WHERE
2 THERE IS NO RIGHT TO A JURY, FOR EXAMPLE, AND --

3 MS. PLEVIN: AS IN THIS CASE.

4 MR. YANNY: THE PUBLIC DOES NOT HAVE ACCESS.

5 THE COURT: SO BASICALLY, I AM CONCLUDING, I THINK,
6 THAT 664.6 DOES NOT GRANT THIS COURT JURISDICTION OVER MR.
7 ARMSTRONG PERSONALLY OR JURISDICTION TO, QUOTE, ENFORCE THE
8 AGREEMENT; NOR DOES 127(A)4 IN THAT THERE NEVER WAS AN ORDER
9 BY JUDGE BRECKENRIDGE REQUIRING THE PARTIES TO PERFORM THE
10 AGREEMENT.

11 MY BELIEF IS THAT HAD HE BEEN ASKED TO DO SO,
12 HE WOULD HAVE DECLINED EVEN ON PAIN OF HAVING THE SETTLEMENT
13 BLOW UP BECAUSE THAT IS JUST ANOTHER FOUR LAWSUITS WAITING
14 TO HAPPEN, IN MY EXPERIENCE, WHEN YOU HAVE AN AGREEMENT
15 LIKE THIS.

16 MR. HERTZBERG: I TAKE IT YOUR HONOR IS DENYING OUR
17 MOTION, THEN, ON THE BASIS OF LACK OF JURISDICTION?

18 THE COURT: I THINK THAT IS WHAT IT COMES DOWN TO.

19 SO THE MINUTE ORDER WILL SHOW THAT THE MOTION
20 IS DENIED.

21 MR. YANNY: THERE IS ONE OTHER MATTER, YOUR HONOR.

22 THE COURT: THIS FIRST MOTION IS DENIED ON THE BASIS
23 THAT JUDGE BRECKENRIDGE DID NOT SIGN AN ORDER OR MAKE AN
24 ORDER REQUIRING THE PARTIES TO PERFORM THE DOCUMENT ENTITLED
25 "MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT";
26 NOR DID JUDGE BRECKENRIDGE SIGN ANY ORDER RESERVING JURIS-
27 DICTION INS THE COURT IN THIS CASE TO ENFORCE SAID AGREEMENT.

28 THE COURT IS AWARE THAT THE PARTIES STIPULATED

28 SO BACK IN THE MINUTE ORDER; HOWEVER, IT

1 REALLY IS 128(A)4. SO MAKE THAT 128(A)4; HOWEVER, CCP
2 128(A)4 RELATES TO COMPELLING OBEDIENCE TO ITS JUDGMENTS,
3 ORDERS AND PROCESS. AND AS INDICATED, THERE IS NO SUCH
4 JUDGMENT OR ORDER HEREIN.

5 DURING THE PROCEEDINGS MOVING PARTY ALSO
6 RELIED UPON SECTION 664.6 OF THE CODE OF CIVIL PROCEDURE;
7 HOWEVER, IT APPEARS THAT ON DECEMBER 11, 1986 THIS ACTION
8 WAS DISMISSED WITH PREJUDICE. THEREFORE, THIS COURT LACKS
9 JURISDICTION UNDER 664.6 OF THE CODE OF CIVIL PROCEDURE
10 SINCE THIS SECTION CEASES TO BE A JURISDICTIONAL BASIS AFTER
11 ENTRY OF JUDGMENT OR JUDGMENT OF DISMISSAL FOR THE REASONS
12 AND ON THE GROUNDS SET FORTH IN THE NOTES OF THE OFFICIAL
13 COURT REPORTER.

14 NOW, TURNING TO THE YANNY MOTION.

15 MR. HERTZBERG: I JUST WANTED THE RECORD TO REFLECT
16 THAT WE OBJECT TO THIS GROUND FOR DENYING THE MOTION, FOR
17 DISMISSING THE MOTION, JUST FOR THE RECORD SO THE RECORD IS
18 ABSOLUTELY CLEAR.

19 THE COURT: ALSO ON CALENDAR THE MOTION OF JOSEPH A.
20 YANNY FOR LEAVE TO INTERVENE IN THE PENDING ACTION AND FOR
21 ACCESS TO SEALED FILES.

22 I AM GOING TO CONSIDER THIS NOT AS A MOTION
23 TO INTERVENE AS A PARTY PLAINTIFF OR DEFENDANT, BUT A MOTION
24 SEEKING ACCESS TO DOCUMENTS SEALED UNDER COURT ORDER.

25 AND THAT ELIMINATES A LOT OF THE ARGUMENT
26 AS TO THE TECHNICALITIES OF FILING OF A COMPLAINT IN INTER-
27 VENTION AS SUCH.

28 ACTUALLY, IN YOUR PAPERS, MR. YANNY, YOU ALSO

1 ARGUE THAT YOU WANT TO INTERVENE FOR THE PURPOSES OF ARGUING
2 ON MR. ARMSTRONG'S BEHALF AGAINST AN INJUNCTION OR DAMAGES.
3 AND I AM DISREGARDING THAT BECAUSE IT IS MOOT IN VIEW OF THE
4 RULING IN THE ENTIRE MOTION.

5 MR. YANNY: JUST FOR THE RECORD, TO ARGUE ON MY OWN
6 BEHALF TO BLOCK GRANTING OF AN INJUNCTION AGAINST MR.
7 ARMSTRONG BECAUSE IT WOULD HAVE A SUBSTANTIAL EFFECT ON MY
8 ABILITY TO GET EVIDENCE OR TO TALK TO OR ASSOCIATE --

9 THE COURT: I WON'T FURTHER CHARACTERIZE IT. YOU CAN
10 ARGUE THAT ELSEWHERE, MEANING EVIDENTALLY BEFORE JUDGE
11 CARDENAS, MAYBE.

12 NOW, YOU DO MAKE ONE OTHER ARGUMENT OTHER THAN
13 THE SEALED DOCUMENTS AND THAT IS THAT YOU WANT TO IN EFFECT
14 HAVE A CLARIFICATION OF THE AGREEMENT; THAT HE NEED NOT
15 ABIDE BY IT BECAUSE ABIDING BY IT PREVENTS YOU FROM GATHERING
16 EVIDENCE.

17 AND I SUGGEST TO YOU THAT THAT IS NOT CORRECT
18 IN THAT HAVING READ THE AGREEMENT, YOU ARE FREE TO SUBPOENA
19 HIM AND TO DEPOSE HIM WITHOUT HIM VIOLATING THE AGREEMENT.

20 MR. DRESCHER: I WANTED TO NOTE FOR THE COURT IN THAT
21 REGARD THAT MR. ARMSTRONG IS ALREADY UNDER SUBPOENA IN THE
22 AZNARAN CASE. THE DEPOSITION HAS BEEN ORDERED BY JUDGE
23 CARDENAS TO BE CONCLUDED BY THE END OF THE MONTH.

24 THE COURT: VERY GOOD. SO THE ONLY THING BEFORE THE
25 COURT AND COUNSEL IN THIS MOTION IS MR. YANNY'S OVERTURE TO,
26 IN EFFECT, UNSEAL THE FILE. AND I HAVEN'T SEEN ANYTHING IN
27 YOUR PAPERS EITHER IDENTIFYING OR EVEN -- WHICH MIGHT BE
28 DIFFICULT, SINCE YOU DON'T KNOW WHAT IS IN THERE.

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1 IS PENDING BEFORE ME, I WILL ENTERTAIN, AS I DO IN ANY CASE
2 WHERE THERE IS A SEALING ORDER, ANY MOTION BY ANY LEGITI-
3 MATELY INTERESTED PARTY TO PARTIALLY OR WHOLLY UNSEAL THE
4 RECORD.

5 I HAVE INDICATED THAT PARTIALLY UNSEALING A
6 RECORD IS A STICKY BUSINESS. BUT THAT IS WHAT HAS HAPPENED
7 HERE.

8 BUT ANY RULING I MAKE ON YOUR MOTION WILL HAVE
9 NO PRECEDENTIAL EFFECT ON ANYONE ELSE SEEKING TO UNSEAL THE
10 RECORD IN ANY DEGREE.

11 MR. YANNY: IF I MAY FINISH BEFORE --

12 THE COURT: LET'S GO TO THE NEXT POINT. THAT POINT HAS
13 BEEN --

14 MR. YANNY: YOUR HONOR, WITH RESPECT TO HAVING TO
15 SUBPOENA MR. ARMSTRONG, I SHOULDN'T HAVE TO; NEITHER SHOULD
16 I HAVE TO --

17 THE COURT: LET'S GET TO THE DOCUMENTS BECAUSE THERE
18 ARE TWO POINTS -- THREE.

19 A, YOU HAVE DONE IT AND, SECONDLY, A LOT OF
20 TIMES YOU HAVE TO DO IT AND YOU DON'T HAVE TO HAVE A
21 CONSTITUTIONAL GUARANTEE TO BE ABLE TO INTERVIEW PEOPLE
22 AND, THIRD, IT IS BEYOND MY JURISDICTION.

23 MR. YANNY: THE DOCUMENTS WHICH ARE STILL WITHIN THE
24 COURT'S JURISDICTION, I WOULD LIKE TO POINT OUT TO THE COURT
25 THAT THE COURT WAS QUITE ASTUTE IN POINTING OUT THAT IT IS
26 VERY DIFFICULT FOR YOU TO PERHAPS GET, OR FOR ME TO SPECI-
27 FICALLY SPELL OUT WHICH DOCUMENTS, IF ANY, THAT I MIGHT
28 WANT WITH RESPECT TO THE PRESENTATION OF MY OWN DEFENSE

1 SINCE THE FILE IS SEALED AND I DON'T HAVE ACCESS TO IT;
2 HOWEVER, IF YOUR HONOR WILL LOOK AT THE EXHIBITS SUBMITTED
3 WHICH WERE THE COMPLAINT AND THE ANSWER IN THIS CASE, YOU
4 WILL SEE THAT I AM SUED FOR BREACHING MY FIDUCIARY DUTIES
5 BY MY FORMER COUNSEL BECAUSE I REPORTEDLY REPRESENTED MR.
6 ARMSTRONG VIS-A-VIS THE ORGANIZATION SCIENTOLOGY.

7 AND THAT RELATES DIRECTLY TO THIS LAWSUIT.

8 NOW, I CAN'T GET INTO THE FILES OF THIS LAW-
9 SUIT TO SHOW WHAT THIS LAWSUIT WAS ABOUT, TO SHOW HOW I
10 DIDN'T REPRESENT MR. ARMSTRONG; I DIDN'T REPRESENT THE
11 ORGANIZATION VIS-A-VIS MR. ARMSTRONG; TO EXPLAIN THAT WHICH
12 THEY HAVE ALREADY PUT INTO EVIDENCE IN THE YANNY I, WHICH
13 WERE THE BILLS WITH RESPECT TO MY WORK FOR SCIENTOLOGY AND
14 WHAT ALL OF THAT MEANT; BECAUSE I DON'T HAVE THOSE FILES,
15 THAT IS NOT AVAILABLE TO ME.

16 THE COURT: IS SOMEBODY CHARGING YOU WITH REPRESENTING
17 MR. ARMSTRONG IN THIS CASE?

18 MR. YANNY: IF YOU TAKE A LOOK AT THE COMPLAINT, YOUR
19 HONOR, WHICH I HAVE SUBMITTED, IT IS AN EXHIBIT; I AM
20 CHARGED WITH REPRESENTING MR. ARMSTRONG.

21 THE COURT: IN THIS CASE?

22 MR. DRESCHER: ABSOLUTELY NOT, YOUR HONOR.

23 MR. YANNY: I AM PERSONALLY CHARGED WITH REPRESENTING
24 MR. ARMSTRONG VIS-A-VIS THIS ORGANIZATION.

25 MR. DRESCHER: BUT NOT THIS CASE. THAT WAS THE COURT'S
26 QUESTION.

27 THE COURT: WHICH PARAGRAPH, MR. YANNY?

28 MR. YANNY: I DON'T HAVE IT IN FRONT OF ME.

1 MR. DRESCHER: YOU TOLD HIM IT WAS THIS CASE. WHY
2 DON'T YOU TELL HIM WHERE IT SAYS THAT?

3 MR. YANNY: ANOTHER THING, MY FILE WAS STOLEN A FEW
4 NIGHTS AGO.

5 MR. DRESCHER: MR. YANNY HAS A CASE IN FRONT OF JUDGE
6 CARDENAS. THE SUBJECT MATTER OF THAT LAWSUIT BEGAN IN THE
7 SUMMER OF 1991 WHEN IT WAS FOUND THAT MR. YANNY, WHO WAS
8 PAID \$2.1 MILLION TO REPRESENT THE CHURCH AND HE IS NOW
9 REPRESENTING AZNARAN. HE IS ENJOINED FROM REPRESENTING THEM
10 DIRECTLY OR INDIRECTLY.

11 HE ADMITTED IN MR. ARMSTRONG'S PRESENCE TO
12 ANOTHER CHURCH COUNSEL THAT HE WAS REPRESENTING HIM,
13 ALTHOUGH HE SAYS IT IS MATTERS UNRELATED TO THE CHURCH.
14 STILL, IT IS 1990, 1991 --

15 THE COURT: UNLESS YOU CAN SHOW SOME ALLEGATION IN THE
16 COMPLAINT AGAINST YOU THAT WOULD GIVE RISE TO THE RELEVANCE
17 OF ANY MATERIAL IN THIS SEALED FILE, I THINK I MUST DENY
18 THIS MOTION.

19 MR. YANNY: I MAY HAVE --

20 MR. DRESCHER: LET ME ADD THE FOLLOWING BECAUSE IT IS
21 PERTINENT TO THE COURT'S QUESTION TO MR. YANNY.

22 THE ARMSTRONG CASE WAS SEALED MANY YEARS AGO.
23 MR. YANNY IS NOW UNDER AN INJUNCTION ISSUED BY JUDGE
24 CARDENAS CONCERNING THE CASE THAT IS BEFORE JUDGE CARDENAS
25 ARISING FROM ACTIVITIES THIS YEAR, JUNE, JULY OF THIS YEAR.
26 AT WORST, IT GOES BACK TO THE SUMMER OF 1990 WHEN JUDGE
27 CARDENAS ENTERED HIS JUDGMENT IN THE YANNY I CASES.

28 THESE JUDGMENTS WERE SEALED IN 1985. THEY CAN

1 HAVE NOTHING TO DO WITH THAT WHICH STARTED A YEAR AGO AT
2 MOST, MORE LIKELY SIX MONTHS AGO. THEY SIMPLY CAN'T.

3 THERE IS ONE OTHER POINT THAT IS CORRELARY TO
4 IT BECAUSE YOUR HONOR MENTIONED THE CORYDON MATTER THIS
5 MORNING IN WHICH CORYDON, REPRESENTED BY MISS PLEVIN, SOUGHT
6 TO HAVE ACCESS TO SEALED FILES IN THIS CASE; GOT LIMITED
7 ACCESS ON A LIMITED BASIS.

8 THAT WAS AFFIRMED. BUT BEFORE THE COURT EVER
9 DID ANYTHING WITH REGARD TO THAT, THERE WAS A RELEVANCE
10 SHOWING THAT WAS REQUIRED; IN FACT, THE COURT REQUIRED THAT
11 THE RELEVANCE OF THE DOCUMENTS TO MR. CORYDON BE FOUND BY
12 THE JUDGE IN THE CORYDON CASE.

13 JUST AS HE HAS DONE THROUGHOUT, MR. YANNY
14 IS TRYING TO MAKE AN END RUN AROUND JUDGE CARDENAS. THE
15 RELEVANCE OF WHATEVER MR. YANNY SEEKS IS REVELANT IN THAT
16 CASE.

17 IT IS JUDGE CARDENAS WHO KNOWS THE FACTS.
18 IT IS JUDGE CARDENAS WHO UNDERSTANDS THE INJUNCTION AND HE
19 UNDERSTANDS THE CLAIMS.

20 THE COURT: IN THE CORYDON MATTER THERE WAS A
21 POSSIBLE PRIVILEGE. AND I DECIDED THAT THE JUDGE IN THE
22 CORYDON CASE SHOULD DECIDE WHETHER OR NOT IT WAS DISCOVERABLE.
23 AND I SAID IT WAS DISCOVERABLE; THEN IT WAS UNSEALED.

24 MR. DRESCHER: RELEVANCE UNDER THE LIMITED PURPOSE --

25 THE COURT: RELEVANCE IS TOO NARROW. THAT GOES TO THE
26 NCS TAPES.

27 MR. YANNY: YOUR HONOR, THE FACT OF THE MATTER IS I
28 AM ACCUSED OF REPRESENTING MR. ARMSTRONG. THERE IS NO

1 SPECIFIC REFERENCE VIS-A-VIS THIS ORGANIZATION. THE ONLY
2 LITIGATION I KNOW OF BETWEEN GERALD ARMSTRONG AND THIS
3 ORGANIZATION WAS BEFORE THIS GOOD COURT ON THIS GOOD DAY AND
4 THE APPEAL THAT WAS TAKEN THEREFROM.

5 I CANNOT DEFEND MYSELF ADEQUATELY UNLESS I
6 GET ACCESS TO THOSE FILES.

7 THERE IS NO RECITATION OF WHICH CASE IN THIS
8 COMPLAINT. IF THEY WANT TO DRAFT IT THAT WAY, THAT IS THEIR
9 PROBLEM.

10 YOUR HONOR, I AM ACCUSED OF REPRESENTING
11 GERALD ARMSTRONG --

12 THE COURT: WHAT PARAGRAPH?

13 MR. YANNY: BEGINNING WITH THE -- WELL, THE FIRST
14 CAUSE OF ACTION, IT SAYS, "LOS ANGELES SUPERIOR COURT C4 -- "

15 THE COURT: PLEASE, DON'T SAY ANOTHER WORD.

16 WHAT PARAGRAPH?

17 MR. YANNY: PARAGRAPH 16, " ... YANNY WAS ACTUALLY
18 ENGAGED IN LITIGATION IN THE MATTER OF THE CHURCH OF
19 SCIENTOLOGY V. GERALD ARMSTRONG CASE NO. C42153."

20 THE FACT OF THE MATTER, YOUR HONOR, IS I NEVER
21 DID.

22 THERE IS ONLY ONE WAY TO DISPROVE THE FACT
23 THAT THEY HAVE PUT IN ISSUE AND THAT IS TO GET INTO THOSE
24 FILES.

25 THEY HAVE CHALLENGED ME AND DEMURRED TO A
26 CROSS-COMPLAINT THAT I HAVE FILED WHICH PUTS IN ISSUE WHO
27 CONTROLS THE ORGANIZATION.

28 THE COURT: WAIT A MINUTE.

1 WELL, DO YOU ALLEGE THAT MR. YANNY REPRESENTED
2 THE CHURCH IN THIS CASE C420153?

3 MR. DRESCHER: WHAT PARAGRAPH IS THAT?

4 MR. YANNY: 16.

5 THIS IS A VERIFIED COMPLAINT, YOUR HONOR.
6 THIS IS A VERIFIED COMPLAINT BY THREE PARTIES.

7 MR. DRESCHER: THERE'S NOTHING IN THIS PARAGRAPH THAT
8 SAYS MR. YANNY WAS COUNSEL OF RECORD OR ANYTHING OF THAT
9 NATURE. IT IS AN ALLEGATION OF FACT THAT PART OF THE TIME
10 PERIOD IN WHICH THIS CASE WAS ORIGINALLY PENDING BEFORE
11 JUDGE BRECKENRIDGE, MR. YANNY WAS REPRESENTING AT LEAST ONE
12 OF THE CHURCHES; THE POINT BEING --

13 MR. YANNY: EXCUSE ME --

14 MR. DRESCHER: -- NOT AS COUNSEL OF RECORD, BUT AS A
15 LAWYER.

16 THE COURT: IT DOESN'T EXCLUDE THAT.

17 MR. DRESCHER: MR. YANNY KNOWS FULL WELL HIS ROLE AND
18 HE KNOWS FULL WELL HE IS TRYING TO END RUN JUDGE CARDENAS.

19 LET ME GIVE YOU A LITTLE VIGNETTE --

20 THE COURT: IF YOU WOULD LIKE, I WILL UNSEAL THE
21 RECORD TO THE EXTENT JUDGE CARDENAS FINDS IT DISCOVERABLE
22 IN HIS CASE.

23 MR. DRESCHER: THAT IS FINE.

24 MR. YANNY: I MIGHT ALSO MAKE A POINT: THESE PEOPLE
25 HAVE IN DEPOSITION -- REVEREND FORNADAY, WHO IS SITTING
26 RIGHT OVER THERE, TESTIFIED THAT ONE OF THE THINGS THAT I
27 DID TO BREACH MY FIDUCIARY DUTY TO MY FORMER CLIENT WAS TO
28 TELL JERRY ARMSTRONG ABOUT FAIR GAME. THE FILE IS NECESSARY

1 TO PROVE THAT.

2 THE COURT: YOU WILL HAVE TO CONVINCE JUDGE CARDENAS
3 AS TO ITS DISCOVERABILITY.

4 WE'LL REFASHION THIS MOTION. IT IS A MOTION
5 FOR LEAVE TO OBTAIN ACCESS TO THE SEALED FILES HEREIN.

6 THE MOTION IS GRANTED TO THE EXTENT THAT JUDGE
7 CARDENAS DETERMINES INFORMATION IN THE SEALED FILES IS
8 DISCOVERABLE BY MR. YANNY IN CASE NO. BC033035.

9 AND IF SUCH IS DISCOVERABLE, IT WILL BE ON THE
10 SAME TERMS AND CONDITIONS AS TO ANY UNSEALED PORTIONS. IT
11 IS SUBJECT TO THE SAME TERMS AND CONDITIONS OF THE DIVISION
12 III OPINION. AND RESPONDING PARTY MAY SUBMIT AN ORDER
13 SETTING THAT FORTH.

14 WE ARE NOW POTENTIALLY ADDING TO A LITTLE BIT
15 MORE UNCONFIDENTIALITY. AND I MIGHT SEE FOUR OR FIVE MORE
16 OF THESE.

17 MR. DRESCHER: IN THAT REGARD, THE COURT WILL MAKE
18 AVAILABLE TO JUDGE CARDENAS THE SEALED DOCUMENTS?

19 THE COURT: IF JUDGE CARDENAS WANTS THEM. THAT IS
20 ANOTHER QUESTION. IF JUDGE CARDENAS FEELS HE NEEDS TO LOOK
21 AT THE FILE IN ORDER TO MAKE A DETERMINATION, HE CAN,
22 CERTAINLY, GET THAT DONE. IF HE WANTS TO HAVE A SPECIFIC
23 ORDER, HE'LL DO IT. I THINK HE HAS AS MUCH POWER AS I DO,
24 BUT MAYBE NOT IN THIS FILE.

25 NORMALLY DISCOVERABILITY IS NOT -- YOU DON'T
26 HAVE TO LOOK AT EVERYTHING; YOU CAN MAKE A DISCOVERY ORDER
27 BASED UPON THE STANDARD OF DISCOVERY. AND IN THIS CASE IT
28 SHOULD BE FAIRLY EASY BECAUSE IF THERE IS A CONTESTED ISSUE

1 AS TO WHETHER YANNY REPRESENTED THE CHURCH IN THIS CASE,
2 UNLESS IT CAN BE LIMITED SOMEHOW THAT HE WASN'T OF RECORD,
3 IT IS GOING TO BE DISCOVERABLE.

4 MR. YANNY: IF IT IS LIMITED, I DID NOT APPEAR AS
5 COUNSEL IN THIS CASE. THEY MADE THE ALLEGATION THAT I
6 REPRESENTED HIM VIS-A-VIS THIS CASE.

7 MR. DRESCHER: I RAISE THE QUESTION FOR ONLY PROCEDURAL
8 REASONS, YOUR HONOR. I AM SORRY IT SPANNED BEYOND THAT.

9 THE COURT: I THINK THE ORDER WILL STAND AS MADE. YOU
10 MAY SUBMIT AN APPROPRIATE ORDER.

11 MR. YANNY: THANK YOU.

12 THE COURT: IN EACH CASE MOVING PARTY TO GIVE NOTICE.
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15 (CONCLUSION OF PROCEEDINGS.)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56

HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF
CALIFORNIA,

PLAINTIFF,

VS.

GERALD ARMSTRONG,

DEFENDANT.

CASE NO. C 420 153

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

SS

I, HERBERT CANNON, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 77, COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON DECEMBER 23, 1991.

DATED THIS 6TH DAY OF JANUARY, 1992.


 OFFICIAL REPORTER

CSR NO. 1923

PROOF OF PERSONAL SERVICE

(Non-Attorney - California State Courts Only)

I am over the age of 18 and not a party to this cause. On January 15, 1992, I personally served a true and correct copy of **DECLARATION OF GRAHAM E. BERRY AND EXHIBITS FILED IN SUPPORT OF DEFENDANTS MOTION FOR LEAVE TO FILE FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED AMENDED COMPLAINT** on each of the following:

John J. Quinn, Esq.
QUINN, KULLY & MORROW
520 South Grand Avenue
Eighth Floor
Los Angeles, California 90071

Service was accomplished in the manner checked below:

_____ I personally delivered it to the attorney(s) or party named above.

_____ During the absence of the attorney from the office, I left it with the attorney's clerk or with a person having charge of the office.

_____ When there was no person in the attorney's office, I left it in a conspicuous place in the office between 9:00 a.m. and 5:00 p.m.

_____ When the office of the attorney was closed, I left it at the attorney's residence (which is in the same county as his or her office (with a person at least 18 years old.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 15, 1992.

PROOF OF PERSONAL SERVICE

(Non-Attorney - California State Courts Only)

I am over the age of 18 and not a party to this cause. On January 15, 1992, I personally served a true and correct copy of DECLARATION OF GRAHAM E. BERRY AND EXHIBITS FILED IN SUPPORT OF DEFENDANTS MOTION FOR LEAVE TO FILE FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED AMENDED COMPLAINT on each of the following:

William T. Drescher, Esq.
23679 Calabasas Road
Suite 338
Calabasas, California 91302

Service was accomplished in the manner checked below:

_____ I personally delivered it to the attorney(s) or party named above.

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Laurie Bartilson, Esq.
Helena K. Kobrin, Esq.
BOWLES & MOXIN
6244 Sunset Boulevard
Suite 2000
Hollywood, California 90028

LOS ANGELES
Service was accomplished in the manner checked below:

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_____ During the absence of the attorney from the office, I left it with the attorney's clerk or with a person having charge of the office.

_____ When there was no person in the attorney's office, I left it in a conspicuous place in the office between 9:00 a.m. and 5:00 p.m.

_____ When the office of the attorney was closed, I left it at the attorney's residence (which is in the same county as his or her office (with a person at least 18 years old.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 15, 1992.

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action; my business address is: 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012

On January 15, 1992, I served the foregoing document(s) described as: **DECLARATION OF GRAHAM E. BERRY AND EXHIBITS FILED IN SUPPORT OF DEFENDANTS MOTION FOR LEAVE TO FILE FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED AMENDED COMPLAINT** on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

(X) (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

() (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the offices of the addressee.

(X) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

() (FEDERAL) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on January 15, 1992, at Los Angeles, California.

ARHLENE BUNING

(Signature)

SERVICE LIST

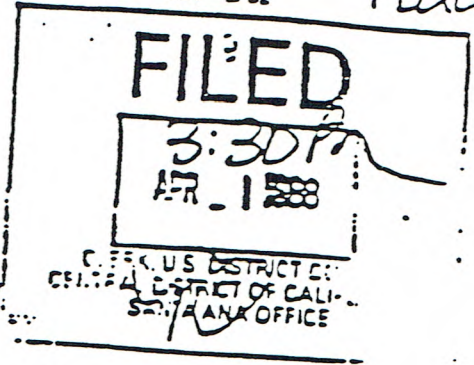
Joseph A. Yanny, Esq.
1925 Century Park East
Suite 1260
Los Angeles, California 90067

Patrick K. Smith, Esq.
1408 Talbott Tower
131 North Ludlow Street
Dayton, Ohio 45402-1773

Statute
Today

Barry Van Sickle
Laurence P. Nokes
Shelley M. Liberto
CUMMINS & WHITE
3737 Birch Street, Fourth Floor
Newport Beach, California 92660
Telephone: (714) 852-1800

Attorneys for Plaintiffs
VICKI J. AZNARAN and RICHARD N. AZNARAN



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT, STATE OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N. AZNARAN,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC.; CHURCH OF SPIRITUAL TECHNOLOGY, INC.; SCIENTOLOGY MISSIONS INTERNATIONAL, INC.; RELIGIOUS TECHNOLOGY CENTER, INC.; AUTHOR SERVICES, INC.; CHURCH OF SCIENTOLOGY INTERNATIONAL, INC.; CHURCH OF SCIENTOLOGY OF LOS ANGELES, INC.; MISSION OFFICE WORLDWIDE; AUTHOR FAMILY TRUST; THE ESTATE OF L. RON HUBBARD; DAVID MISCAVIGE; and NORMAN STARKEY

Defendants.

CASE NO. CV 88-1786-LUDK (EX)

COMPLAINT FOR FALSE IMPRISONMENT; INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS; NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS; LOSS OF CONSORTIUM; CONSPIRACY; BREACH OF CONTRACT; RESTITUTION; FRAUD; INVASION OF PRIVACY; BREACH OF STATUTORY DUTY TO PAY MINIMUM WAGES AND OVERTIME [Cal. Lab. C. §1194] AND CONSTRUCTIVE FRAUD

COME NOW Plaintiffs VICKI J. and RICHARD N. AZNARAN, and allege as follows:

JURISDICTION AND VENUE

1. Jurisdiction for all of Plaintiffs' claims is proper under 28 USC §1332 because complete diversity exists between all Plaintiffs and all Defendants, and the amount in controversy exceeds Ten Thousand Dollars (\$10,000.00). Venue is

1 proper under 28 USC §§1391(b) and 1392 because all of Plaintiffs'
2 claims arose in this District and one or more of the Defendants
3 resides in this District.

4 COMMON ALLEGATIONS

5 2. Plaintiffs VICKI J. AZNARAN and RICHARD N. AZNARAN
6 (hereinafter "Plaintiffs"), are individuals domiciled in the
7 State of Texas, County of Dallas.

8 3. Plaintiffs are informed and believe and thereon
9 allege that Defendants CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC.,
10 CHURCH OF SPIRITUAL TECHNOLOGY, INC., SCIENTOLOGY MISSIONS
11 INTERNATIONAL, INC., RELIGIOUS TECHNOLOGY CENTER, INC., AUTHOR
12 SERVICES, INC., AND CHURCH OF SCIENTOLOGY INTERNATIONAL, INC. and
13 CHURCH OF SCIENTOLOGY OF LOS ANGELES, INC., are, and at all times
14 herein mentioned were, California corporations authorized to do
15 and doing business in the State of California.

16 4. Plaintiffs are informed and believe and thereon
17 allege that Defendants AUTHOR FAMILY TRUST, MISSION OFFICE
18 WORLDWIDE, and the ESTATE OF L. RON HUBBARD are entities that are
19 residents of the State of California.

20 5. Plaintiffs are informed and believe and thereon
21 allege that Defendants DAVID MISCAVIGE and NORMAN STARKEY are
22 individuals domiciled in the State of California.

23 6. Corporate Defendants named in paragraph 2, above,
24 are subject to a unity of control, and the separate alleged
25 corporate structures were created as an attempt to avoid payment
26 of taxes, and civil judgments. Due to the unity of personnel,
27 commingling of assets, and commonality of business objectives,
28 the attempt at separation of these corporations should be
disregarded by the Court.

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1 7. The fallacious designations of Defendant
2 organization as "Churches" or other religious entities is a sham
3 contrived to exploit protections of the First Amendment of the
4 United States Constitution, and at no time herein mentioned. did
5 Defendants render any religious services, or engage in any
6 religious activities whatsoever. Rather, said organizations were
7 created solely for the purpose of making money from the sale of
8 copyrights of the book Dianetics, written by L. RON HUBBARD, and
9 from the subjugation and exploitation of thousands of individuals
10 such as Plaintiffs for free labor and services.

11 8. Each of the Defendants is the agent,
12 coconspirator, partner or employee of the other, and did the acts
13 alleged herein pursuant to said relationship.

14 9. From the period in or about November of 1973 until
15 in or about May of 1987, Plaintiffs were members of the CHURCH OF
16 SCIENTOLOGY (hereinafter the "Church"). Plaintiff RICHARD M.
17 AZNARAN (hereinafter "RICHARD") was indoctrinated into the Church
18 in Dallas, Texas, upon returning from service with the United
19 States Marine Corps in Vietnam, by active recruitment techniques
20 which involved written examinations, assignment to "communication
21 courses" for which Plaintiffs paid good and adequate
22 consideration, and assignments to different job positions within
23 the Church. Plaintiff VICKI AZNARAN was also recruited by the
24 Church in Dallas, Texas in or about the same time by the same
25 active recruitment techniques.

26 10. In or about 1975, Plaintiffs entered into a five
27 year renewable written Employment Agreement with Defendants, and
28 each of them, whereby Plaintiffs would be paid an unspecified
"allowance," bonuses, and room and board in exchange for an

1 unspecified number of hours to be worked each day and week for
2 the Church. As a matter of policy, Plaintiffs later learned that
3 their allowance amounted to approximately \$17.50 per week and
4 working hours were 9:00 a.m to 12:00 midnight, daily, with one
5 day's leave every two weeks. Even these "privileges," however,
6 were subject to being removed by the Church pursuant to the "Team
7 Member System." Pursuant to the Team Member System, the Church
8 published five classes of laminated cards, each class
9 representing a token to be used as privately-issued money in
10 exchange for food, board, pay, bonuses and liberty. The Team
11 Member System required that the Plaintiffs be given one of each
12 of these cards when the Church administration was satisfied with
13 their work production, and loyalty to the organization. Any
14 dissatisfaction with the work output or "attitude" of Plaintiffs
15 would result in revocation of the tokens, thereby requiring
16 Plaintiffs to work long hours with no days off, no pay, no board
17 (requiring them to sleep outdoors on the ground) and substandard
18 nutrition comprised solely of rice, beans and water. When
19 Plaintiffs had lost all of their cards, as a matter of course,
20 they would be sent to the Rehabilitation Project Force for
21 "attitude adjustment," which was comprised of even harsher labor,
22 deprivation of liberty, and psychological duress forcing the
23 submission of Plaintiffs to the power and control of Defendants,
24 as set out more specifically herein.

25 11. From the outset, and during the course of their
26 involvement with the Church, Defendants subjected Plaintiffs to
27 psychological trauma, duress and undue influence for the purposes
28 of forcing submission of Plaintiffs to the control of Defendants
by means of brainwashing. The purpose of forcing submission of

1 Plaintiffs and other individuals to the control of Defendants was
2 to create a slave-like work force that would work to the wealth
3 and benefit of Defendants. Once Plaintiffs were placed under the
4 domination of Defendants, Plaintiffs were exploited against their
5 will to work as uncompensated employees of Defendants, and
6 continuously subjected to physical and psychological trauma,
7 indoctrination and exhaustion.

8 12. For the duration of their affiliation with
9 Defendants, Defendants and each of them employed the following
10 psychological devices, as well as other devices, to cause
11 Plaintiffs to involuntarily abandon their identities, spouses,
12 and loyalties, and deprive Plaintiffs of their independent free
13 will, thereby forcing them to submit to the physical and
14 psychological control of Defendants: Threats of torture;
15 implementation of brainwashing tactics; threats of physical harm
16 for lack of loyalty to Defendants; implementation of an
17 electronic device dubbed the "E Meter" that purportedly measured
18 the degree of Plaintiffs' loyalty to Defendants through
19 electrodes held in Plaintiffs' hands during the course of lengthy
20 interrogations, as described with more particularity herein;
21 sudden involuntary and forceable separation of spouses from one
22 another for many months, and depriving the spouses of
23 communication with one another or allowing them to know where the
24 other was located; willfully and expressly inducing divorce
25 between Plaintiffs; forcibly causing Plaintiffs to work long
26 hours at hard labor in excess of 40 hours a week and eight hours
27 a day without compensation; deliberately inducing fatigue by
28 physical abuse and deprivation of sleep; forcing Plaintiffs to be
housed in animal quarters; deliberately confining Plaintiffs to

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1 premises under the control of Defendants and under threat of
2 physical harm without allowing Plaintiffs to leave of their own
3 free will; and threatening Plaintiffs that failure to submit to
4 the power and control of Defendants would result in their
5 becoming "fair game," a term of art coined by Defendants,
6 described more clearly herein.

7 13. During the course of their involuntary affiliation
8 with Defendants, Plaintiffs were, on many occasions, subjected to
9 scrutiny regarding their loyalty to Defendants by being placed on
10 the E Meter. The E Meter is an electronic device used by
11 Defendants that measures the emotional responses of employees of
12 Defendants, such as Plaintiffs, through electrodes held in the
13 hands. Plaintiffs would regularly be interrogated for days on
14 end, not being allowed to sleep, regarding their loyalty or lack
15 thereof to Defendants. The E Meter was comprised of a needle
16 that would rise to levels indicating the degree of credibility
17 and loyalty of the interrogated party.

18 14. Defendants, and each of them, have a known policy
19 of "fair game." This policy directs that any individual or
20 employee who expresses a lack of loyalty to Defendants is open to
21 any form of harassment, economic ruin, or subject to any covert
22 plan designed to cause emotional or physical harm, and/or
23 financial ruin. This plan includes the destruction of a person's
24 business, reputation, and/or framing of false charges of criminal
25 acts. Throughout Plaintiffs' involuntary affiliation with
26 Defendants, they were constantly psychologically tormented with
27 threats of becoming "fair game" within the context of the
28 specialized meaning given the term by Defendants.

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1 15. During the course of their "employ" with
2 Defendants, Plaintiff VICKI J. AZNARAN (hereinafter "VICKI") was
3 employed in the so-called Commodore's Messenger Organization,
4 executing the directives of L. RON HUBBARD (herein "Hubbard") in
5 a management capacity. RICHARD was assigned to the personal
6 office of Hubbard in the capacity of Public Relations Expert in
7 charge of creating a positive image of Hubbard among staff and
8 the public.

9 16. In or about 1981, VICKI was ordered to Los Angeles
10 where she was employed as a "missionaire" to purge members of
11 Defendants' organization who had been subjected to civil and
12 criminal prosecution, remove assets of Defendant CHURCH OF
13 SCIENOTOLOGY OF CALIFORNIA to overseas trusts where they could not
14 be accessed by plaintiffs or the government, and set up sham
15 corporate structures to evade prosecution generally. RICHARD was
16 sent with VICKI in the capacity of a security investigator who
17 surveilled members of the organizations associated with
18 Defendants for the purposes of determining their loyalty and
19 likelihood that they would testify against Defendants in pending
20 civil and criminal suits, as well as designated "enemies" of the
21 Church. In or about December of 1981, VICKI and RICHARD were
22 ordered to the Religious Technology Center controlled and
23 operated by Defendant RELIGIOUS TECHNOLOGY CENTER, INC., at
24 Gilman Hot Springs, near Hemet, California. VICKI was assigned
25 to work for Defendant AUTHOR SERVICES, INC., in managing the
26 sales of copyright of the book, Dianetics, written by Hubbard.
27 She was also commissioned to reorganize corporate structures and
28 effect sham sales of millions of copies of Dianetics to the
corporate Defendants named herein as a vehicle for transferring

1 assets among them. RICHARD was assigned to supervise the
2 construction of a home for Hubbard with the assistance of some
3 120 other "members" of the various organizations of Defendants.
4 Plaintiffs were assigned to these positions by Defendant DAVID
5 MISCAVIGE (herein "MISCAVIGE") who was operating under
6 instructions of Ann and Patrick Broeker, personal confidants of
7 Hubbard.

8 17. In or about March of 1982, Defendant MISCAVIGE
9 became dissatisfied with the speed at which RICHARD was
10 completing the construction project, and imposed the Team Member
11 System, thereby depriving RICHARD of all of his cards, and
12 thereby forcing RICHARD to work without pay from 9:00 a.m. to
13 12:00 p.m., without any days off, to sleep outdoors, and to eat
14 only rice and beans. Ultimately, RICHARD was punished by being
15 assigned to the Rehabilitation Project Force in Los Angeles where
16 he was made a member of a construction crew working on the
17 renovation of buildings owned and operated by Defendants on the
18 corner of Vermont and Sunset, known as the Cedars of Lebanon
19 Buildings. RICHARD was forced to work long hours again, from
20 9:00 a.m. until 12:00 midnight without any days off at a rate of
21 pay of \$1.25 per week. He was forced to work in this position
22 for 99 days. During the course of his incarceration on the
23 Rehabilitation Project Force, VICKI remained in Hemet where she
24 worked directly for Ann Broeker. Both VICKI and RICHARD were
25 deprived of the right of meeting with each other; nevertheless,
26 VICKI surreptitiously drove to Los Angeles to meet with RICHARD
27 late Friday nights. Both VICKI and RICHARD had been told that if
28 they had been caught meeting or communicating with each other,
they would become "fair game." Finally, on or around

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1 Thanksgiving of 1982, RICHARD was deemed "rehabilitated" and
2 returned to the Religious Technology Center in Hemet where he
3 installed a security system around the Hubbard residence, and
4 continued to work in the capacity of security specialist for
5 Defendants.

6 18. In or about October of 1982, Defendants, and each
7 of them, resolved to restructure their corporate and financial
8 relationships at a meeting in San Francisco, which restructuring
9 called for all Scientology entities to turn over their profits to
10 Defendant AUTHOR SERVICES, INC. VICKI expressed disapproval of
11 the proposal and was summarily ordered to the Rehabilitation
12 Project Force in Hemet where, for approximately 120 days, was
13 forced to participate in the "running program." The running
14 program required VICKI and other persons subjected to the control
15 of Defendants to run around an orange telephone pole from
16 7:00 a.m. until 9:30 p.m. in the evening, with 10 minute rests
17 every one-half hour, and 30 minute breaks for lunch and dinner.
18 In or about May of 1983, VICKI was deemed rehabilitated and
19 ordered back to the Religious Technology Center at Gilman Hot
20 Springs. From mid 1983 until the death of Hubbard on January 24,
21 1986, VICKI and RICHARD remained in their respective work
22 capacities at Gilman Hot Springs continually undergoing physical
23 trauma and indoctrination by use of the techniques already
24 described hereinabove.

25 19. On or about January 24, 1986, RICHARD was ordered
26 to the San Louis Obispo ranch of Hubbard where he was forced to
27 work in the capacity of a security guard for a year and a half.
28 During this time, Defendants, and each of them, continued to
force him to work the hours of 9:00 a.m until 12:00 midnight,

1 with the possibility of having one day off every two weeks, at
2 minimum wage. RICHARD was forced to falsify time cards to
3 falsely indicate that he had been working 40 hour work weeks, so
4 as to avoid an obligation on the part of Defendants from paying
5 him overtime. During his stay at the ranch in San Louis Obispo,
6 RICHARD was forced to sleep in a horse stable with several of the
7 other indoctrinated employees of Defendants. During the course
8 of RICHARD's stay at the ranch, VICKI was not told of his
9 whereabouts, nor were Plaintiffs permitted to correspond with
10 each other.

11 20. In or about February of 1987, a schism arose
12 between Defendant MISCAVIGE and the Broekers, each of whom
13 claimed to possess the "upper level Holy Scriptures" written by
14 Hubbard, which scriptures Hubbard had intended to bequeath to the
15 Church. VICKI became increasingly demanding of Defendant
16 MISCAVIGE to be put in contact with RICHARD, and Defendant
17 MISCAVIGE regarded her demands as an expression of allegiance to
18 MISCAVIGE's new religious rival, the Broekers. MISCAVIGE
19 therefore ordered VICKI to the Rehabilitation Project Force at
20 "Happy Valley," a secret location bordering the Soboba Indian
21 Reservation near Gilman Hot Springs, California, overseen and
22 controlled by Defendant NORMAN STARKEY.

23 21. Plaintiff VICKI understood that the consequences
24 of the lack of cooperation was a threat of "fair game," and that
25 Defendants, and each of them, would make efforts to sever her
26 relationship entirely with her husband, as Defendants had done to
27 others. VICKI was further advised that if she went to the
28 Rehabilitation Project Force camp in Happy Valley cooperatively,
she would be able to see RICHARD within a few days. This

1 representation was false when made. In fact, Defendants
2 concealed the true intent which was to keep VICKI totally
3 separated from her husband and deny her access to him.

4 22. Once having arrived at Happy Valley, VICKI was
5 assigned a guard and was not allowed to go anywhere or do
6 anything without her guard being present. At night, she was
7 imprisoned by having heavy furniture moved to secure the exit,
8 keeping her from in any way escaping. Further, Defendants kept,
9 and continue to keep all of her physical belongings including a
10 horse and two dogs.

11 23. VICKI was in fear of being physically prevented
12 from leaving, or subject to "fair game" if she escaped.
13 Plaintiff had seen in the past other victims of Happy Valley be
14 beaten upon attempted escape, and their personal belongings
15 destroyed. During this period of unlawful detention, VICKI was
16 unable to communicate with RICHARD as their correspondence was
17 intercepted and denied. During this period of false
18 imprisonment, VICKI and others were made to wear rags taken out
19 of garbage cans, sleep on the ground, dig ditches, subjected to
20 many hours of indoctrination using the techniques hereinabove,
21 all designed to coercively force VICKI to submit to the control
22 of Defendants. During the time of her incarceration in Happy
23 Valley, Defendants DAVID MISCAVIGE and NORMAN STARKEY were
24 directing and enforcing the coercive and abusive indoctrination
25 devices at Happy Valley.

26 24. On or about April 9, 1987 VICKI and two other
27 victims escaped from Happy Valley onto the Soboba Indian
28 Reservation where they were pursued on motorcycles by guards of
Happy Valley. VICKI and the other victims were rescued by

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1 residents of the reservation who picked them up in a pick-up
2 truck and spirited them to a motel in the City of Hemet.

3 25. As these events were transpiring, RICHARD, still
4 at the ranch in San Louis Obispo, was repeatedly urged that VICKI
5 had become disloyal to Defendants, and that RICHARD should
6 divorce her.

7 26. RICHARD demanded to see VICKI and was permitted to
8 go to Hemet where Plaintiffs were reunited. Fearful of reprisals
9 and becoming "fair game," however, Plaintiffs did not at that
10 time sever their relationships altogether with Defendants.
11 Plaintiffs therefore left the State of California to Dallas,
12 Texas where they set up a private investigation business,
13 remaining in contact and under the control of Defendants.

14 27. Because Defendants regarded Plaintiffs departure
15 to Texas as a breach of their five year commitment with
16 Plaintiffs, Defendants submitted a bill for services allegedly
17 rendered to Plaintiffs entitled "freeloader bill" in the amount
18 of \$59,048.02. This bill purports to indicate all of the
19 expenses incurred by Defendants in indoctrination activities
20 imposed upon Plaintiffs. That is, Defendants attempted to charge
21 money to Plaintiffs for each session in which the E Meter was
22 used, all indoctrination sessions, and time spent on the
23 Rehabilitation Project Force. These services are dubbed
24 "courses" and "auditing sessions." Plaintiffs have been required
25 to make payments on this fictitious bill in order to escape
26 becoming "fair game."

27 28. As a result of the psychological trauma and
28 indoctrination techniques applied by Defendants, and each of
them, Plaintiffs were unable to comprehend their legal rights

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1 with regard to the actions of Defendants, and were not
2 sufficiently conscious of the nature and effect of the acts of
3 Defendants so as to be able to take legal action or hire an
4 attorney until on or about January 1, 1988. Plaintiffs continued
5 to submit to the demands and requests of Defendants, and remained
6 subjected to psychological trauma imposed by Plaintiffs until on
7 or about January 1, 1988, when they resolved to seek legal
8 assistance.

9
10 FIRST CAUSE OF ACTION
(False Imprisonment)

11 29. Plaintiffs repeat, reallege and incorporate herein
12 by reference each of the allegations contained in Paragraphs 2
13 through 28, inclusive, of the Common Allegations as though set
14 forth in full below.

15 30. In or about February, 1987, Defendants, and each
16 of them, physically seized Plaintiff VICKI AZNARAN ("VICKI") and
17 forcibly, against her will, and without her consent and over her
18 protest, placed VICKI in the confines of a so-called
19 Rehabilitation Project Force Camp at Happy Valley, California,
20 near the Soboba Indian Reservation, Riverside County. During
21 this time, Defendants, and each of them, employed coercive
22 indoctrination tactics more fully described in Common Allegations
23 above, warned her that she would be "Fair Game," and made
24 representations that they would work to sever her marriage with
25 her husband, Plaintiff RICHARD AZNARAN. Plaintiff VICKI was in
26 fear of being physically beaten, and was under constant guard at
27 all times. During this period of false imprisonment, Plaintiff
28 VICKI and other inmates were made to wear rags taken out of
garbage cans, sleep on the ground, dig ditches, and were

1 subjected to numerous hours of indoctrination, all designed to
2 coercively force VICKI to submit to the control of Defendants.
3 On or about April 9, 1967, VICKI was successful in escaping from
4 Happy Valley.

5 31. In employing these coercive and threatening
6 tactics during the course of imprisonment more fully described in
7 Common Allegations, above, Defendants, and each of them, acted
8 with deliberate malice for the purpose of forcing submission of
9 Plaintiff VICKI to their control, so that she would remain in
10 their employ for no consideration whatsoever, under circumstances
11 that can only be described as involuntary servitude.

12 32. As a proximate result of the acts of Defendants
13 set out herein, and in the Common Allegations, above, Plaintiff
14 VICKI was injured in her health, strength, and activity,
15 sustaining injury to her body and shock and injury to her nervous
16 system and person, all of which injuries have caused VICKI to
17 suffer extreme and severe physical pain and mental anguish.
18 These injuries have resulted in, and will continue to result in,
19 some permanent disability to Plaintiff VICKI, and Plaintiff VICKI
20 has been damaged in an amount according to proof at trial.

21 33. Defendants, and each of them, engaged in the false
22 imprisonment of Plaintiff VICKI as herein alleged, and were
23 willful, wanton, despicable, malicious, and oppressive, and their
24 acts justify the awarding of punitive damages, and Plaintiff
25 VICKI is entitled to and hereby demands from Defendants, and each
26 of them, punitive damages in an amount not less than Ten Million
27 Dollars (\$10,000,000.00).
28

1 SECOND CAUSE OF ACTION
2 (Intentional Infliction of Emotional Distress)

3 34. Plaintiffs repeat, reallege and incorporate herein
4 by reference each of the allegations contained in Paragraphs 2
5 through 28, inclusive, of the Common Allegations, Paragraphs 29
6 through 33, inclusive, of the First Cause of Action, as though
7 set forth in full below.

8 35. Defendants, and each of them, represented to
9 Plaintiffs and others, that they were rendering services of a
10 spiritual and psychological nature that would make Plaintiffs
11 better persons. These representations included statements that
12 Scientology would scientifically improve Plaintiffs' well being
13 and make them physiologically better persons. These
14 representations were false when made by Defendants, and each of
15 them, and known to be false when made. Based on the relationship
16 of trust developed between Plaintiffs and Defendants, Defendants,
17 and each of them, were fully aware of the particular
18 susceptibility of Plaintiffs' to emotional distress imposed by
19 them.

20 36. Defendants' conduct, as set out in the Common
21 Allegations, above, was intentional and malicious and done for
22 the purpose of causing Plaintiffs to suffer humiliation, mental
23 anguish, and emotional and physical distress. The conduct of
24 Defendants in confirming and ratifying that conduct was done with
25 the knowledge that Plaintiffs' emotional and physical distress
26 would thereby increase upon application of the indoctrination
27 techniques used by Plaintiffs more fully set out in the Common
28 Allegations, above, including, but not limited to, causing
Plaintiffs to be separated for many months without knowing where

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1 the other was located. Such conduct was done with a wanton and
2 reckless disregard of the consequences to Plaintiffs.

3 37. As the proximate result of the aforementioned
4 acts, Plaintiffs suffered humiliation, mental anguish, and
5 emotional and physical distress, and have been injured in mind
6 and body in an amount according to proof at trial.

7 38. The aforementioned acts of Defendants were
8 willful, wanton, despicable, malicious, and oppressive, and
9 justify the awarding of exemplary and punitive damages in an
10 amount not less than Ten Million Dollars (\$10,000,000.00).

11 THIRD CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

12 39. Plaintiffs repeat, reallege and incorporate herein
13 by reference each of the allegations contained in Paragraphs 2
14 through 28, inclusive, of the Common Allegations, and Paragraphs
15 29 through 33, inclusive, of the First Cause of Action, and
16 Paragraphs 34 through 38, inclusive, of the Second Cause of
17 Action as though set forth in full below.

18 40. From the period of 1973 until 1988, Defendants,
19 and each of them, represented to Plaintiffs and others, that they
20 were rendering services of a spiritual and physiological nature
21 that would make Plaintiffs better persons. These representations
22 included statements that Scientology technology would
23 scientifically improve Plaintiffs' well being and make them
24 psychologically better persons.

25 41. During the course of their affiliation with
26 Plaintiffs, Defendants, and each of them, engaged in the conduct
27 more fully described hereinabove in the Common Allegations.

28 42. As a proximate result of the negligence and
carelessness of Defendants, and each of them, Plaintiffs suffered

1 serious mental anguish and emotional distress and have been
2 injured all to Plaintiffs' damage in an amount to be determined
3 according to proof at trial.

4 FOURTH CAUSE OF ACTION
 (Loss of Consortium)

5 43. Plaintiffs repeat, reallege and incorporate herein
6 by reference each of the allegations contained in Paragraphs 2
7 through 28, inclusive, of the Common Allegations, Paragraphs 29
8 through 33, inclusive, of the First Cause of Action, Paragraphs
9 34 through 38, inclusive, of the Second Cause of Action, and of
10 Paragraphs 49 through 42, inclusive, of the Third Cause of
11 Action, as though set forth in full below.

12 44. As a consequence of the conduct of Defendants, and
13 each of them, set out more fully above in the Common Allegations,
14 Plaintiffs were unwillfully separated from each other for long
15 periods of time and were deprived of their right as husband and
16 wife to remain together and in communication.

17 45. Prior to the conduct of Defendants, and each of
18 them, more fully set out in the Common Allegations above, each of
19 Plaintiffs was able to, and did perform his or her duties as a
20 husband or wife. Subsequent to the conduct of Defendants, and as
21 a proximate result thereof, Plaintiffs were unable to perform
22 their necessary duties as spouses to each other, and each was
23 unable to perform their work, services, and duties. By reason
24 thereof, Plaintiffs were deprived of each other's consortium, and
25 to Plaintiffs' damage in an amount according to proof at trial.

26 46. Defendants, and each of them, engaged in said
27 conduct, with the specific intent to injure Plaintiffs, which
28 constitutes oppression, malice, despicable conduct, and a
conscious disregard for the Plaintiffs' rights and, therefore,

1 Plaintiffs are entitled to and hereby demand from Defendants, and
2 each of them, punitive damages in an amount not less than Ten
3 Million Dollars (\$10,000,000.00).

4 FIFTH CAUSE OF ACTION
(Conspiracy)

5 47. Plaintiffs repeat, reallege and incorporate herein
6 by reference each of the allegations contained in Paragraphs 2
7 through 28, inclusive, of the Common Allegations, Paragraphs 29
8 through 33, inclusive, of the First Cause of Action, Paragraphs
9 34 through 38, inclusive, of the Second Cause of Action,
10 Paragraphs 39 through 42, of the Third Cause of Action, and
11 Paragraphs 43 through 46, inclusive, of the Fourth Cause of
12 Action as though set forth in full below.

13 48. During the course of Plaintiffs' affiliation with
14 Defendants, Defendants, and each of them, knowing and willfully
15 conspired, and agreed among themselves, to engage in the tortious
16 activities and wrongful schemes set out in the Common
17 Allegations, above.

18 49. Defendants, and each of them, did the acts and
19 things herein alleged pursuant to, and in furtherance of, the
20 conspiracy and above-alleged agreement.

21 50. Defendants, and each of them, furthered the
22 conspiracy by cooperating with each other and/or lending aide and
23 encouragement to, and/or ratifying and adopting the acts of each
24 other in perpetrating the conspiracy herein alleged.

25 51. As a proximate result of the wrongful acts herein
26 alleged, Plaintiffs have been generally damaged in an amount to
27 be determined according to proof at trial.

28 52. Defendants, and each of them, did the things
herein alleged maliciously and to oppress Plaintiff, and

1 constitute despicable conduct. Plaintiff is therefore entitled
2 to exemplary or punitive damages in a sum of not less than Ten
3 Million Dollars (\$10,000,000.00).

4 SIXTH CAUSE OF ACTION
5 (Fraud)

6 53. Plaintiffs repeat, reallege and incorporate herein
7 by reference each of the allegations contained in Paragraphs 2
8 through 28, inclusive, of the Common Allegations, Paragraphs 29
9 through 33 inclusive, of the First Cause of Action, Paragraphs 34
10 through 38, inclusive, of the Second Cause of Action, Paragraphs
11 39 through 42, inclusive, of the Third Cause of Action,
12 Paragraphs 43 through 46, inclusive, of the Fourth Cause of
13 Action, Paragraphs 47 through 52, inclusive, of the Fifth Cause
14 of Action as though set forth in full below.

15 54. Defendants, and each of them, represented to the
16 Plaintiffs and others, that they were rendering services of a
17 spiritual and psychological nature that would make Plaintiffs
18 better persons. These representations included statements that
19 Scientology technology would scientifically improve Plaintiffs'
20 well being and make them psychologically better people. These
21 representations were false when made by Defendants, and each of
22 them, and known to be false when made.

23 55. Defendants, and each of them, knew that the
24 practices of the so-called Church of Scientology, its affiliates,
25 and Defendants named herein, were not designed to increase the
26 well being of any of its victims, but were made to coercively
27 persuade each and every follower to dedicate their lives to
28 Defendants in order for Defendants to increase their wealth
derived from an overall scheme to make money founded on the
exploitation of free labor. Pursuant thereto, Defendants, and

1 each of them, required Plaintiffs to participate in crimes
2 against the United States Government, including the obstruction
3 of justice and efforts to create corporate structures designed to
4 keep payments from properly being paid to the Internal Revenue
5 Service.

6 56. Pursuant to the fraudulent scheme described
7 herein, Plaintiffs were, subjected to humiliation, degradation,
8 physical labor, and imprisonment, all designed to break down
9 their will and free thinking, and convert them into 'submissive,
10 frightened and dedicated followers of Defendants.

11 57. In submitting to Defendants' programs, Plaintiffs
12 reasonably relied upon the representations of Defendants, and
13 each of them, and if they had known the truth, Plaintiffs would
14 not have submitted. As a result of said fraudulent conduct,
15 Defendants lost 15 years of their lives, suffered emotional
16 distress and psychological injury, and were deprived of some 15
17 years of salary.

18 58. As a proximate result of the wrongful acts herein
19 alleged, Plaintiffs have been damaged in an amount to be
20 determined according to proof at trial.

21 59. Defendants, and each of them, engaged in said
22 fraudulent activity with the specific intent to injure
23 Plaintiffs, which constitutes oppression, despicable conduct,
24 malice and a conscious disregard for Plaintiffs' rights and,
25 therefore, Plaintiffs are entitled to and hereby demand from
26 Defendants, and each of them, punitive damages in an amount not
27 less than Ten Million Dollars (\$10,000,000.00).
28

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SEVENTH CAUSE OF ACTION
(Breach of Contract)

60. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Causes of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, and Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action, and Paragraphs 53 through 59, inclusive, of the Sixth Cause of Action as though set forth in full below.

61. Commencing in or about 1972, Plaintiffs entered into oral and written agreements with Plaintiffs wherein Defendants, and each of them, promised to provide spiritual and psychological services to Plaintiffs. In return, Plaintiffs would work and serve Defendants, and each of them.

62. Defendants, and each of them, breached the said agreements by not providing any spiritual or psychological services, but rather, providing indoctrination, psychological coercion, duress and stress, all designed to break Plaintiffs' will so that they would remain compliant servants to Defendants for the remainder of their lives, and to the use of Defendants in furtherance of illegal conduct and money making schemes. As the result of said breach of agreement as set out both herein and in the Common Allegations, above, Plaintiffs have lost the value of the reasonable services rendered to Defendants, and each of them, during their 15 year affiliation with Defendants. Further, Plaintiffs have lost 15 years of their lives that would have

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1 otherwise been spent developing careers and financial security
2 for themselves.

3 63. As a proximate result of the breach of the
4 agreement described herein, and in the Common Allegations above,
5 Plaintiffs have been damaged in an amount according to proof at
6 trial.

7 EIGHTH CAUSE OF ACTION
(Restitution)

8 64. Plaintiffs repeat, reallege and incorporate herein
9 by reference each of the allegations contained in Paragraphs 2
10 through 28, inclusive, of the Common Allegations, Paragraphs 29
11 through 33, inclusive, of the First Cause of Action, Paragraphs
12 34 through 38, inclusive, of the Second Cause of Action,
13 Paragraphs 39 through 42, inclusive, of the Third Cause of
14 Action, and Paragraphs 43 through 46, inclusive, of the Fourth
15 Cause of Action, and Paragraphs 47 through 52, inclusive, of the
16 Fifth Cause of Action, and Paragraphs 53 through 59, inclusive,
17 of the Sixth Cause of Action, and Paragraphs 60 through 63,
18 inclusive, of the Seventh Cause of Action as though set forth in
19 full below.

20 65. Defendants, and each of them, publicly advocate
21 that any person who takes Scientology courses and becomes
22 dissatisfied with the same, is entitled to a refund of the
23 financial compensation paid for the same.

24 66. This representation by Defendants, and each of
25 them, is part of the agreement between Plaintiffs and Defendants
26 for Scientology technology services Plaintiffs have received.
27 Pursuant to said agreement, Plaintiffs have, and are hereby
28 making, demand upon Defendants, and each of them, for the return
of the financial compensation paid for such training and courses.

1 67. Defendants, and each of them, have placed a
2 monetary value of the services rendered by Defendants, and each
3 of them, at Fifty-Nine Thousand Forty Eight Dollars and Forty
4 Cents (\$59,048.40).

5 68. Plaintiffs, through their labor, have paid the
6 full amount of said monetary value of services and therefore
7 demand return of this sum from Defendants, and each of them, to
8 Plaintiffs.

9 69. Furthermore, Plaintiffs demand the reasonable
10 value of the services they have rendered to Defendants, and each
11 of them, over the period of 1972 to 1988, more fully described in
12 the common allegations, above, in an amount according to proof at
13 trial.

14 NINTH CAUSE OF ACTION
 (Invasion of Privacy)

15 70. Plaintiffs repeat, reallege and incorporate herein
16 by reference each of the allegations contained in Paragraphs 2
17 through 28, inclusive, of the Common Allegations, Paragraphs 29
18 through 33, inclusive, of the First Causes of Action, Paragraphs
19 34 through 38, inclusive, of the Second Cause of Action,
20 Paragraphs 39 through 42, inclusive, of the Third Cause of
21 Action, and Paragraphs 43 through 46, inclusive, of the Fourth
22 Cause of Action, and Paragraphs 47 through 52, inclusive, of the
23 Fifth Cause of Action, and Paragraphs 53 through 59, inclusive,
24 of the Sixth Cause of Action, and Paragraphs 60 through 63,
25 inclusive, of the Seventh Cause of Action, and Paragraphs 64
26 through 69, inclusive of the Eighth Cause of Action as though set
27 forth in full below.

28 71. Pursuant to the promises of Defendants, and all of
them, regarding spiritual and psychological counseling,

1 Plaintiffs were forced to participate in "counseling sessions" in
2 which they were forced to reveal that their inner-most private
3 thoughts and feelings. Defendants, and each of them, represented
4 to Plaintiffs that all such information received from the
5 so-called "auditing" sessions employing the use of various
6 psychological techniques, including, but not limited to, the use
7 of the E-Meter described in the Common Allegations above, would
8 be held in confidence and would never be disclosed or put to any
9 use. Said information was of no legitimate public concern.
10 Pursuant to these representations and promises, Plaintiffs
11 participated in the "auditing sessions" and discussed and
12 disclosed their inner-most private thoughts.

13 72. In April, 1987, and prior to April 9, 1987,
14 Defendants, and each of them, read the private file of Plaintiff
15 VICKI J. AZNARAN containing said private information from VICKI's
16 auditing sessions.

17 73. Defendants, and each of them, demanded that VICKI
18 then publicly disclose and give further details concerning
19 further events they had learned from said file concerning various
20 other victims of Defendants. VICKI was advised, warned and
21 threatened that if she did not give further details, Defendants,
22 and each of them, would "get it out of you one way or another."

23 74. As a result of this violation of privacy, VICKI
24 has been humiliated, distraught, and suffered emotional distress,
25 damaging her in an amount according to proof at trial.

26 75. Defendants, and each of them, engaged in said
27 invasion of privacy with the specific intent to injure Plaintiff,
28 which constitutes despicable conduct, oppression, malice and
conscious disregard for Plaintiff's rights and, therefore,

1 Plaintiff is entitled to and hereby demands from Defendants, and
2 each of them, punitive damages in and amount not less than Ten
3 Million Dollars (\$10,000,000.00).

4 TENTH CAUSE OF ACTION
5 (Breach of Statutory Duty to Pay
6 Minimum Wages and Overtime)

7 76. Plaintiffs repeat, reallege and incorporate herein
8 by reference each of the allegations contained in Paragraphs 2
9 through 28, inclusive, of the Common Allegations, Paragraphs 29
10 through 33, inclusive, of the First Causes of Action, Paragraphs
11 34 through 38, inclusive, of the Second Cause of Action,
12 Paragraphs 39 through 42, inclusive, of the Third Cause of
13 Action, and Paragraphs 43 through 46, inclusive, of the Fourth
14 Cause of Action, and Paragraphs 47 through 52, inclusive, of the
15 Fifth Cause of Action, and Paragraphs 53 through 59, inclusive,
16 of the Sixth Cause of Action, and Paragraphs 60 through 63,
17 inclusive, of the Seventh Cause of Action, Paragraphs 64 through
18 69, inclusive of the Eighth Cause of Action, and Paragraphs 70
19 through 75, inclusive of the Ninth Cause of Action as though set
20 forth in full below...

21 77. During the period from in or about June, 1973, to
22 in or about April, 1987, inclusive, Plaintiffs worked for
23 Defendants, and each of them, for a total of 9,764 man hours,
24 5,648 of which represent regular working hours, and 4,116 hours
25 of which represent overtime hours.

26 78. Plaintiffs are therefore entitled to an amount
27 representing minimum wage for the regular hours worked as well as
28 overtime pay for overtime hours, pursuant to California Labor
Code §1194, in an amount according to proof at trial.

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1 79. Plaintiffs are also entitled to reasonable
2 attorneys' fees in an amount according to proof at trial,
3 pursuant to §218.5 of the California Labor Code.

4 ELEVENTH CAUSE OF ACTION
5 (Constructive Fraud)

6 80. Plaintiffs repeat, reallege and incorporate herein
7 by reference each of the allegations contained in Paragraphs 2
8 through 28, inclusive, of the Common Allegations, Paragraphs 29
9 through 33, inclusive, of the First Causes of Action, Paragraphs
10 34 through 38, inclusive, of the Second Cause of Action,
11 Paragraphs 39 through 42, inclusive, of the Third Cause of
12 Action, and Paragraphs 43 through 46, inclusive, of the Fourth
13 Cause of Action, and Paragraphs 47 through 52, inclusive, of the
14 Fifth Cause of Action, and Paragraphs 53 through 59, inclusive,
15 of the Sixth Cause of Action, and Paragraphs 60 through 63,
16 inclusive, of the Seventh Cause of Action, Paragraphs 64 through
17 69, inclusive of the Eighth Cause of Action, Paragraphs 70
18 through 75, inclusive of the Ninth Cause of Action, and
19 Paragraphs 76 through 79, inclusive of the Tenth Cause of Action
as though set forth in full below.

20 81. Defendants, and each of them, represented to the
21 Plaintiffs and others, that they were rendering services of a
22 spiritual and psychological nature that would make Plaintiffs
23 better persons. These representations included statements that
24 Scientology technology would scientifically improve Plaintiffs'
25 well being and make them psychologically better people. These
26 representations were false when made by Defendants, and each of
27 them, and known to be false when made.

28 82. As a consequence of the false representations made
by Defendants, and each of them to Plaintiffs, Plaintiffs and

1 Defendants developed a relationship of trust elevating Defendants
2 to the role of fiduciaries of Plaintiffs.

3 83. In submitting to Defendants' programs, Plaintiffs
4 relied upon the representations of Defendants, and each of them,
5 and if they had known the truth, Plaintiffs would not have so
6 submitted. As a result of said fraudulent conduct, Defendants
7 continued to submit to demands of Plaintiffs to their detriment,
8 from the period in or about 1973 until on or about January 1,
9 1988.

10 84. As a proximate result of the wrongful acts herein
11 alleged, Plaintiffs have been damaged in an amount to be
12 determined according to proof at trial.

13 85. Defendants, and each of them, engaged in said
14 fraudulent activity with the specific intent to injure
15 Plaintiffs, which constitutes oppression, malice and a conscious
16 disregard for Plaintiffs' rights and, therefore, Plaintiffs are
17 entitled to and hereby demand from Defendants, and each of them,
18 punitive damages in an amount not less than Ten Million Dollars
19 (\$10,000,000.00).

20 WHEREFORE, Plaintiffs pray for judgment as follows:

21 As to the First Cause of Action:

22 1. For general and special damages according to proof
23 at trial; and

24 2. For punitive damages from Defendants, and each of
25 them, in an amount not less than Ten Million Dollars
26 (\$10,000,000.00);

27 As to the Second Cause of Action:

28 1. For general and special damages according to proof
at trial; and

1 2. For punitive damages from Defendants, and each of
2 then, in an amount not less than Ten Million Dollars
3 (\$10,000,000.00);

4 As to the Third Cause of Action:

5 1. For general and special damages according to proof
6 at trial;

7 As to the Fourth Cause of Action:

8 1. For general and special damages according to proof
9 at trial; and

10 2. For punitive damages from Defendants, and each of
11 them, in an amount not less than Ten Million Dollars
12 (\$10,000,000.00);

13 As to the Fifth Cause of Action:

14 1. For general and special damages according to proof
15 at trial; and

16 2. For punitive damages from Defendants, and each of
17 them, in the amount of Ten Million Dollars (\$10,000,000.00);

18 As to the Sixth Cause of Action:

19 1. For general and special damages according to proof
20 at trial;

21 2. For punitive damages in an amount of not less than
22 Ten Million Dollars (\$10,000,000.00);

23 As to the Seventh Cause of Action:

24 1. For general and special damages according to proof
25 at trial; and

26 As to the Eighth Cause of Action:

27 1. For general damages according to proof at trial;
28 and

 2. For special damages in the amount of \$59,048.40.

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1 As to the Ninth Cause of Action:

2 1. For general and special damages according to proof
3 at trial; and

4 2. For punitive damages in an amount of not less than
5 Ten Million Dollars (\$10,000,000.00); and

6 As to the Tenth Cause of Action:

7 1. For general and special damages according to proof
8 at trial; and

9 2. Reasonable attorneys' fees according to proof at
trial.

10 As to the Eleventh Cause of Action:

11 1. For general and special damages according to proof
12 at trial; and

13 2. For punitive damages in an amount of not less than
14 Ten Million Dollars (\$10,000,000.00).

15 As to all Causes of Action:

16 1. For cost of suit incurred herein;

17 2. For attorneys' fees incurred; and

18 3. For such other and further relief and the court
19 may deem just and proper.

20 Dated: April 1, 1988

21 CUMMINS & WHITE

22
23 By: 871466

24 SHELLEY M. LIBERTO
Attorneys for Plaintiffs
25 VICKI J. AZNARAN and
RICHARD N. AZNARAN
26
27
28

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Cont

LEWIS, D'AMATO, BRISBOIS & BISGAARD
 DAVID B. PARKER
 GRAHAM E. BERRY
 JAYESH PATEL
 221 North Figueroa Street, Suite 1200
 Los Angeles, California 90012
 (213) 250-1800

JOSEPH A. YANNY, ESQ.
 1925 Century Park East
 Suite 1260
 Los Angeles, California 90067
 (213) 551-2966

PATRICK K. SMITH, ESQ.
 1408 Talbott Tower
 131 N. Ludlow Street
 Dayton, Ohio 45402-1773
 (513) 222-6926

Attorneys for Defendants JOSEPH A. YANNY,
 an individual and JOSEPH A. YANNY, a
 Professional Law Corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RELIGIOUS TECHNOLOGY CENTER, a	)	No. BC 033035
California Non-Profit Religious	)	
Corporation; CHURCH OF	)	DEFENDANTS' "MEET & CONFER"
SCIENTOLOGY INTERNATIONAL, a	)	STATEMENT REGARDING DEFENDANTS'
California Non-Profit Religious	)	NOTICED DEPOSITIONS OF JOHN J.
Corporation; and CHURCH OF	)	QUINN, WILLIAM T. DRESCHER AND
SCIENTOLOGY OF CALIFORNIA, a	)	LAURIE J. BARTILSON AND THE
California Non-Profit Religious	)	CUSTODIAN OF RECORDS OF THEIR
Corporation,	)	RESPECTIVE LAW FIRMS

Plaintiffs,

Time: 9:00 a.m.
 Date: February 21, 1992
 Place: J.A.M.S., Santa Monica
 Referee:
 Hon. Thomas T. Johnson

vs.

JOSEPH A. YANNY, an Individual;
 JOSEPH A. YANNY, a Professional
 Law Corporation and DOES 1
 through 25, Inclusive,

Motion Cutoff: Mar. 27, 1992
 Discovery Cutoff: Mar. 27, 1992
 Trial Date: Apr. 27, 1992
 Dept.: 41

Defendants.

[Filed Concurrently With
 Appendix of Exhibits]

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1 I. INTRODUCTION

2 This statement is submitted in connection with the "meet &
3 confer" to be held regarding plaintiffs' objections to defendants'
4 noticed depositions of John J. Quinn, William T. Drescher and
5 Laurie J. Bartilson and the custodians of record of their
6 respective law firms. Appendix of Exhibits, Exhs. T-Y.

7 Plaintiffs are seeking compensatory damages which are largely,
8 or totally, comprised of the attorneys fees they allegedly paid to
9 three different law firms, (Quinn, Kully & Morrow, William T.
10 Drescher, Esq. and Bowles & Moxon). Accordingly, defendants are
11 entitled to take the depositions of the responsible attorneys at
12 those three law firms on the issue of the cost, scope and
13 reasonableness of legal services rendered. Furthermore, John J.
14 Quinn, Esq. and William T. Drescher, Esq. are percipient witnesses
15 to, and participants in, the very events which triggered the
16 matters giving rise to this litigation.

17 Accordingly, defendants are entitled to take the depositions
18 of Messrs. Quinn and Drescher as to their percipient knowledge of
19 these events. Declarations of John J. Quinn, (Exh. A), William T.
20 Drescher, (Exh. B) and Barry Van Sickle (Exhs. C & D).

21 Plaintiffs vainly argue that defendants' predecessor attorney
22 took the deposition of Kendrick L. Moxon who is also a percipient
23 witness (Exh. F) and failed to ask him any questions as to damages.
24 This argument is a red herring. Moreover, there is no authority
25 estopping defendants' current counsel from taking the foregoing
26 discovery because of the failure of their predecessor counsel to
27 ask such questions.

28 //

II. SUMMARY OF CONTENTIONS AND ARGUMENT

Plaintiffs seem to take the position that defendants are not entitled to take the depositions of plaintiffs' attorneys, and the custodians of records of their law firms because they are lawyers. However, these very same lawyers (John J. Quinn, Esq. and William T. Drescher, Esq.) voluntarily injected themselves into the Aznaran litigation by filing declarations, (Exhs. A & B) in support of plaintiffs' motion to disqualify Yanny as the Aznarans' chosen counsel of record in that litigation. Parenthetically, it is also noted that another of plaintiffs attorneys (Kendrick L. Moxon, Esq.) voluntarily inserted himself into this litigation by filing a declaration (Exh. F) in support of plaintiffs' motion for a preliminary injunction herein.

None of these attorneys had to voluntarily come forward and offer up their declarations as percipient witnesses, in support of relief being sought by plaintiffs. Nonetheless, plaintiffs obtained the relief they sought based upon the declarations of alleged fact submitted by their own attorneys who held themselves out as percipient witnesses (Exhs. A, B and F). In doing so, plaintiffs asked the court to rely on the statements of their attorneys and accept their view of the case. In addition, plaintiffs have referred to the declaration of John J. Quinn dated July 8, 1991 as being a percipient witness who made a statement concerning the events in issue. Exhs. AA-CC, Responses to Interrogatories Nos. 17 and 19. Having obtained relief based upon the declarations of fact submitted by their attorneys (Exhs. A, B and F) the plaintiffs now argue that defendants are not entitled to cross-examine those very same deponents on the facts alleged in

1 their declarations, Exhs. A, B & F.

2 Other than the attorney client and attorney work product
3 privileges, there is no special immunity provided to attorneys.
4 Attorneys who are percipient witness are subject to subpoena and
5 examination just like any other percipient witness. If questioning
6 intrudes into areas over which the plaintiffs wish to properly
7 claim attorney client privilege, or the attorney's wish to claim
8 work product privilege, an appropriate objection may be registered
9 and the referee will rule accordingly.

10 In addition, the damages plaintiffs seek are necessarily
11 limited to a certain portion of their attorneys' fees, and the
12 salaries of their employees, associated with the motion for
13 disqualification in the Aznaran case and the motion for a
14 preliminary injunction in this litigation. However, defendants
15 note that certain of their affirmative defenses would deny
16 plaintiffs' claims for these alleged damages. Be that as it may,
17 defendants are entitled to take discovery as to the cost, scope and
18 reasonableness of the various services with regard to which
19 plaintiffs are claiming damages. Accordingly, they are entitled to
20 take the depositions of the custodians of record of plaintiffs'
21 three law firms and to take the depositions of Messrs. Quinn,
22 Drescher and Bartilson on damage issues. In this regard, plaintiffs
23 may choose to either provide such discovery or make attorney-client
24 and/or attorney-work product objections. Defendants are entitled
25 to force plaintiffs to make this election because the very election
26 itself has important evidentiary consequences at trial.

27 In addition, plaintiffs have referred to the declaration of
28 John J. Quinn dated July 8, 1991 as being a percipient witness who

made a statement concerning the events in issue. Exhs. AA-CC, Responses to Interrogatories Nos. 17 and 19.

III. STATEMENT OF FACTS^{1/}

Plaintiffs plead two claims of breach of fiduciary duty and seek permanent injunctions, compensatory damages of more than \$1,000,000, punitive damages and exemplary damages. Complaint, ¶ 35, 36 and prayer for relief. Exh. N.

A. The Aznaran Claim

The first cause of action arises out of Vicki J. Aznaran and Richard N. Aznaran v. Church of Scientology of California, U.S.D.C., C.D., Ca, Case No. C 88-1786 ("the Aznaran case"). Vicki Aznaran was formerly one of the top six Scientology leaders and was President of plaintiff Religious Technology Center, Inc. before she left the organization in 1987. Richard Aznaran was "the Church's former head of security." Time, May 6, 1991, p. 57. Berry Dec. Exh. L.

It was Vicki Aznaran who had retained defendants to perform certain legal services for plaintiffs in or about 1983 or 1984. In addition, Vicki Aznaran provided defendants with most of the information and instructions regarding plaintiffs. Subsequently, plaintiffs also retained defendants to provide legal services directly to both Vicki and Richard Aznaran in legal matters in

^{1/}With reference to this statement of facts, the Court is also referred to the following documents which are attached to the concurrently filed appendix of documents: the Aznaran complaint (Exh. I); the declarations of John J. Quinn (Exh. A); William T. Drescher (Exh. B); Barry Van Sickle (Exhs. C & D); Kendrick L. Moxon (Exh. F); Vicki J. Aznaran (Exh. G); Richard N. Aznaran (Exh. H); and Joseph A. Yanny (Exh. E); Complaint (Exhibit N); First Amended Answer (Exhibit O); Statement of Decision in Yanny I (Exhibit M).

1 which the church was also interested. However, defendants never
2 provided legal services to plaintiffs in the Aznaran case which was
3 filed on April 1, 1988, well after defendants and plaintiffs had
4 already terminated their attorney-client relationship.

5 The Aznaran case involves claims for damages for false
6 imprisonment,² intentional infliction of emotional distress,
7 negligent infliction of emotional distress, loss of consortium,
8 conspiracy, fraud, breach of contract, invasion of privacy,
9 constructive fraud and also seeks restitution and unpaid wages and
10 overtime. Aznaran Complaint, para. 17, Exh. I. The Aznarans had
11 filed suit after escaping from plaintiffs' detention centers where
12 they had been forcibly detained and forced to do hard labor.
13 Aznaran Complaint, paras. 17-32, Exh. I.

14 The Aznarans had difficulty locating an attorney. Plaintiffs'
15 intimidating litigation tactics had been well publicized.
16 Moreover, many attorneys willing to litigate against plaintiffs had
17 been neutralized by secret settlement agreements that unlawfully
18 provided, inter alia, that the settling attorneys would not assist
19 or cooperate with any person adverse to Scientology in any
20 proceeding or participate in any other judicial proceeding adverse
21 to Scientology unless compelled to do so by lawful process.

22 Barry Van Sickle, Esq. was one of the remaining few attorneys
23 willing to litigate against plaintiffs having appeared in the
24 Corydon, Yanny I and Friend cases. The Aznarans hired Van Sickle

25
26 ² A claim which is mirrored by other cases in which there is
27 substantial proof of false imprisonment such as the Roxanne Friend
28 case (pending in L.A.S.C. Dept. 22) which involves the alleged
kidnapping and interstate transportation of Roxanne Friend who was
deprived of essential medical care for cancer.

1 who filed the Aznarans' complaint. Plaintiffs successfully
2 disqualified him with the argument that he was a mere extension of
3 Yanny because of his representation of Defendants in Yanny I. The
4 Aznarans were without legal counsel for the next six months while
5 they vainly searched for an attorney willing to litigate against
6 the Scientology organization. The Aznarans finally found and
7 retained Marin County attorney Ford Greene, who had participated in
8 seminars and claimed substantial experience in litigating against
9 cults and also successfully litigated Molko v. Holy Spirit Assn.
10 (1988) 46 Cal.3d 1092, 252 Cal.Rptr. 122. Plaintiffs then sued
11 Yanny alleging breach of fiduciary duty regarding the Aznarans
12 ("Yanny I"). A preliminary injunction was entered against
13 Defendants. Defendants cross-complained for unpaid legal fees.
14 After a 39 day jury trial, Defendants won on all issues.
15 Plaintiffs' appeal is still pending. See Statement of Decision,
16 July 18, 1990. Exh. M.

17 On June 5, 1991, plaintiffs' attorneys John J. Quinn and
18 William T. Drescher had a breakfast meeting with Van Sickle,
19 ostensibly to discuss settlement of the Corydon case. Instead,
20 Quinn and Drescher told Van Sickle that they wanted to settle
21 Corydon, Aznaran and Yanny I and that they were offering \$1 million
22 to settle both the Aznaran and Corydon cases, \$750,000 for Corydon
23 and \$250,000 for Aznaran, or whatever other allocation was
24 agreeable. Despite the fact that Van Sickle was under a
25 disqualification order sought by these same plaintiffs, Drescher
26 suggested that Van Sickle should convey the offer directly to his
27 former clients, the Aznarans, instead of going through their
28 attorney of record, Greene, with whom Plaintiffs supposedly had

1 difficulties. Van Sickle did so. He said nothing to his client
2 Joe Yanny about any of this. Whether or not Plaintiffs actually
3 insisted on the Aznarans discharging Greene prior to any
4 settlement, it is clear Van Sickle had discussions with the
5 Aznarans, in the context of settlement, about discharging Greene
6 before they took that fateful step. Subsequent to the Aznaran/Van
7 Sickle settlement communications requested by plaintiffs, the
8 Aznarans discharged their attorney Ford Greene believing that they
9 had taken a major step towards settlement of their case. Exhs. C
10 and H, para. 5.

11 Van Sickle, Quinn and Drescher again had breakfast on June 20,
12 1991 and discussed settlement of the Aznaran case. Van Sickle told
13 Quinn and Drescher that the Aznarans had discharged Greene. As if
14 by coincidence, the Aznaran settlement discussions then broke down
15 and Drescher told Van Sickle that plaintiffs no longer wished to
16 negotiate because the Aznarans were now without counsel.

17 At no time between June 5 and June 20 did either Quinn or
18 Drescher indicate to Van Sickle that they were preparing a motion
19 for summary judgment, yet the day before the second breakfast
20 meeting, Quinn, Drescher and the Church's other 5 law firms had
21 mailed off the first of two summary judgment missile. Without
22 counsel and facing a case terminating motion, the Aznarans reached
23 out to defendant Joe Yanny, their friend and former attorney.

24 On June 28, 1991 Yanny telephoned Quinn and requested a
25 continuance of the summary judgment motion hearing date so that
26 status quo could be preserved while the representation issue

1 involving Yanny and/or Van Sickle could be resolved.^{3/} Quinn
2 refused to continue the hearing date. Instead, however, Quinn
3 offered a curious compromise; he would forego shortening time and
4 file a motion to disqualify to be heard after the summary judgment
5 hearing so that Yanny could wade into substantive waters and
6 prepare the opposition.

7 Of necessity, therefore, on July 2, 1991 Yanny filed an Ex
8 Parte Application to Continue the Summary Judgment Hearing Date and
9 Supporting Declarations. On July 8, 1991, plaintiffs filed
10 opposition to the Aznarans' request for a continuance of the
11 summary judgment hearing date and requested sanctions for Yanny's
12 appearance in the case. They also filed a motion to disqualify
13 Defendants and an ex parte application for an order shortening
14 time.

15 On July 24, 1991, the Court vacated the Orders approving the
16 substitution of Yanny as the Aznarans' counsel and unilaterally
17 reinstated Greene as counsel for the Aznarans. On August 30, 1991,
18 the Court denied plaintiffs' request for sanctions expressly
19 referring to the "flagrant misconduct" and "outrageous litigation
20 tactics" of both sides. Exh. J. Plaintiffs did not appeal the
21 denial of their sanctions request and their summary judgment motion
22 is still pending -- as a result of plaintiffs' unsuccessful motion
23 to disqualify Judge Ideman.

24 The Aznaran case is therefore still pending. The Corydon case
25 has been settled apparently for the sum of approx. \$1.3 m. paid by

26 ^{3/} By preserving the status quo the Scientology organization
27 would briefly delay the summary judgment hearing and Yanny could
28 delay any potentially compromising substantive involvement until
the representation issue could be resolved.

1 a Luxembourg bank check.

2 On July 18, 1991, Plaintiffs filed this lawsuit, before the
3 District Court vacated Defendants' substitution on July 24, 1991¹
4 and denied Plaintiffs' sanctions request on August 30, 1991.

5 Defendants filed no substantive pleadings in the Aznaran case
6 (despite Quinn's invitation they could do so pending a ruling on a
7 later heard motion to disqualify). They only filed procedural
8 papers in an effort to preserve the status quo by briefly
9 continuing the hearing date on Plaintiffs' motions for summary
10 judgment.² Defendants' actions to protect the procedural and due
11 process rights of the Aznarans would not have been necessary had
12 Plaintiffs not communicated settlement offers directly to the
13 Aznarans behind their counsel's back, using the previously
14 disqualified Van Sickle (who was also known to plaintiffs to
15 Yanny's attorney). Having done all this, plaintiffs still could
16 have avoided all that followed by the simple courtesy of continuing
17 the hearing date on the motions for summary judgment so that the
18 Aznarans could retain another attorney to prepare their opposition
19 papers.

20 //

21 //

22 //

23 ¹ Notwithstanding, plaintiffs still proceeded with their
24 application for a preliminary injunction on August 6, 1991 when the
relief sought was already moot.

25 ² These were: ex parte application to continue the hearing
26 date, supporting declarations, proposed order (all filed July 2,
1991); Reply to opposition to ex parte application (filed July 9,
27 1991); Ex parte application to continue the hearing on
[Scientology's] second motion for summary judgment, supporting
28 declarations and proposed order (all filed July 9, 1991).

1 B. The Armstrong Claim

2 Plaintiffs base their second cause of action upon the slender
3 seed of wild suspicion based on the appearance of Armstrong⁹ in the
4 company of Yanny at the clerk's office of the District court.
5 Yanny was reviewing the J. J. Gaw v. I.R.S. court file. J.J. Gaw
6 is one of the plaintiffs' investigators who has conducted
7 surveillance activities of defendants on plaintiffs' behalf.
8 According to plaintiffs' attorney Moxon, Yanny told him that he
9 represented Armstrong "only on literary matters". Exh. F. From
10 this one event plaintiffs allege their breach of fiduciary claim
11 regarding Armstrong. Accordingly, plaintiffs' second cause of
12 action is utterly meritless.

13
14 IV. DEFENDANTS' AFFIRMATIVE DEFENSES

15 Defendants have pleaded a number of meritorious defenses to
16 the plaintiffs' complaint. First Amended Answer, Exh. O.

17 The First Affirmative Defense pleads failure to state a cause
18 of action. Plaintiffs' complaint is grounded upon alleged breaches
19 of the canons of ethics. It is well-established law that breaches
20 of the canons of ethics do not give rise to separate causes of
21 action but rather grounds for complaint to the State Bar
22 Disciplinary Committee and for the granting of sanctions, as were
23 unsuccessfully requested by plaintiffs when they opposed
24 defendants' motion to continue the summary judgment hearing date in

25
26 ⁹ Armstrong was the defendant in Church of Scientology of
27 California v. Armstrong (LASC Case No. C 420 153) which has been
28 settled. However, on December 23, 1991 Hon. Bruce R. Geernaert
 made the entire Armstrong case file available to this Court for
 this case. Transcript, December 23, 1991, Exh. K.

1 the litigation entitled Vicki Aznaran, et al. v. Church of
2 Scientology of California, Case No. C88-1786 JMI (EX) (the "Aznaran
3 case.")

4 The Second Affirmative Defense asserts that this court cannot
5 enjoin the practice of law. This court has already made this
6 determination in its Statement of Decision filed July 18, 1990 in
7 Religious Technology Center, et al. v. Joseph A. Yanny, et al.,
8 Case No. C690211 ("Yanny I") Exh. M.

9 The Third Affirmative Defense asserts that the alleged wrong
10 has already been completed and, because no further alleged damages
11 are threatened or even possible, plaintiffs' claim for injunctive
12 relief must also fail for mootness.

13 The Fourth Affirmative Defense asserts that there is no
14 substantial relationship between the brief appearance by defendants
15 in the Aznaran case and Yanny's earlier representation of
16 plaintiffs in other unrelated matters. Beyond that, this Court has
17 already, in effect, determined that defendants were never in a
18 position where they could have received information that the
19 plaintiffs might reasonably have assumed that these answering
20 defendants would withhold from either Vicki Aznaran, the former
21 president of plaintiff Religious Technology Center, or Richard
22 Aznaran, a former employee of Church of Scientology International.

23 For the same reason, the Fifth Affirmative Defense asserts
24 that there were was no disclosure of confidences because any
25 confidential information in the possession of defendants was
26 already known to Vicki Aznaran, Richard Aznaran or Gerald
27 Armstrong. Indeed, it was Vicki Aznaran who originally retained
28 defendants on behalf of plaintiffs, instructed him and directed his

1 activity.

2 The Sixth Affirmative Defense asserts that this action is
3 barred by plaintiffs' failure to exhaust other remedies such as an
4 appeal of the denial of sanctions when they successfully moved to
5 disqualify defendants in the Aznaran case and their failure to file
6 any complaint with the State Bar.

7 The Seventh Affirmative Defense asserts the equitable defense
8 of unclean hands. The Eighth Affirmative Defense asserts the
9 related equitable defense of in pari delicto, although defendants
10 deny any wrongdoing on their part.^{2/} The factual basis for the
11 Seventh and Eighth Affirmative defenses is illustrated by the
12 allegations that are set forth with regard to the Ninth, Tenth and
13 Fifteenth Affirmative Defenses (Illegality, Fraud, and Deceit,
14 Crime/Fraud Exception).

15 The Ninth Affirmative Defense (Illegality) and the facts on
16 which it is based are of multiple impact. First, a contract for
17 professional services is just as unenforceable on the ground of
18 illegality in performance ("malum prohibitum") as any other
19 contract. Second, illegality in performance ("malum prohibitum")
20 also gives rise to the crime/fraud exception to the attorney-client
21 privilege set forth in Evidence Code §956 and asserted herein as
22 the Fifteenth Affirmative Defense. Third, the allegations of
23 illegality also support the Twenty-First Affirmative Defense of
24 Justification, Defense of Another, Interest of Third Persons and
25 the Public. Fourth, illegality also supports the Seventh

26
27 ^{2/} The Court is referred to the subsequent District Court order
28 referring to "the outrageous litigation tactics of both sides."
Exhibit J.

1 Affirmative Defense of Unclean Hands, the Eighth Affirmative
2 Defense of In Pari Delicto (although the defendants deny any
3 wrongdoing on their part), the Seventeenth Affirmative Defense
4 (Estoppel by Conduct), the Eighteenth Affirmative Defense (Action
5 Barred by General Principles of Equity) and the Twenty-Third
6 Affirmative Defense of Good Faith.

7 We have reviewed sworn declarations by a number of people who
8 provide voluminous evidence of overwhelming acts of illegality by
9 plaintiffs. E.g., Exhs. P-S. Furthermore, the Courts have
10 already recognized plaintiffs' illegal activities, such as the
11 "fair game doctrine", in cases such as: U.S. v. Katter (1988) 840
12 F.2d 118; U.S. v. Zolin (1987) 809 F.2d 1411; Van Schaick v. Church
13 of Scientology (1982) 535 F.Supp. 1125; Church of Scientology v.
14 Armstrong (1991) 232 Cal.App.3d 1060; Wollersheim v. Church of
15 Scientology (1989) 212 Cal.App.3d 872;^{1/} Allard v. Church of
16 Scientology (1976) 58 Cal.App.3d 439, 129 Cal.Rptr. 797;
17 Christofferson v. Church of Scientology (1981) 57 Ore.App.203, 644
18 P.2d 577.

19 Similarly, the Tenth Affirmative Defense (fraud and deceit)
20 also has multiple impact. First, it also supports the Seventh
21 Affirmative Defense (Unclean Hands), the Eighth Affirmative Defense
22 (In Pari Delicto) (although defendants deny any wrongdoing on their
23 part), the Fifteenth Affirmative Defense (Crime/Fraud Exception),
24 the Seventeenth Affirmative Defense (Estoppel by Conduct), the
25 Eighteenth Affirmative Defense (Action Barred by Equity and Civil
26 Code Provisions), the Twenty-First Affirmative Defense

27 ^{1/} Vacated as to punitive damage award 113 L.Ed 2d 234, 111
28 S.Ct. 1298 (1991). However, the opinion itself is still good law.

1 (Justification, Defense of Another, Interest of Third Persons and
2 the Public), the Twenty-Second Affirmative Defense (Justification-
3 Drastic Result Exception to the Substantial Relationship Test), and
4 the Twenty-Third Affirmative Defense (Good Faith and Due
5 Diligence). The Tenth Affirmative Defense (fraud and deceit) is
6 factually supported by the Declarations of John J. Quinn dated
7 July 8, 1991, William T. Drescher dated July 8, 1991, Barry Van
8 Sickie dated July 8, 1991, Joseph A. Yanny dated July 1, 1991,
9 Richard N. Aznaran dated July 1, 1991, Vickie J. Aznaran dated July
10 1, 1991 (Exhs. A-E, F & H) and the District Court Order in the
11 Aznaran case dated August 30, 1991 (Exh. J). Of great significance
12 are plaintiffs' own admissions, through the declarations of their
13 attorneys Joseph J. Quinn and William T. Drescher, (Exhs. A & B) of
14 most of the allegations set forth in the Tenth Affirmative Defense.

15 The Eleventh and Twelfth Affirmative Defenses assert that
16 plaintiffs' claims herein are barred by the doctrines of res
17 judicata and collateral estoppel as a result of plaintiffs'
18 unsuccessful motion for sanctions in the Aznaran case, the
19 Statement of Decision and various findings of law and fact of this
20 Court in Yanny I (Exh. M) and the various judicial decisions on
21 "fair game" etc. already referred to.

22 The Thirteenth Affirmative Defense (failure to mitigate
23 damages) arises out of the circumstances which led to defendants'
24 brief appearance as counsel in the Aznaran case. After the
25 Aznarans found themselves without counsel of record and facing a
26 motion for summary judgment instead of settlement negotiations,
27
28

1 they contacted defendants^{2/} who telephoned plaintiffs' attorney
2 John J. Quinn and requested a continuance in order to resolve the
3 representation issue. Yanny Dec., July 1, 1991, ¶ 6. Exh. E.
4 Because the pool of attorneys available and willing to represent
5 the Aznarans against plaintiffs had been significantly depleted as
6 a result of the various allegations of illegality set forth in the
7 Ninth Affirmative Defense, including the numerous Flynn-type
8 settlement agreements which were in part illegal, and publicly
9 documented other acts of illegality by plaintiffs, it was not as
10 easy as in the usual case to obtain new counsel for the Aznarans.
11 Plaintiffs treatment of attorneys appears to be to either buy them
12 or scare them! Accordingly, defendants' request for a continuance
13 of time was not only reasonable under the circumstances but would
14 have been a simple and usual act of common courtesy. Had
15 plaintiffs, through their counsel John J. Quinn, continued the
16 hearing date on the motion for summary judgment then the Aznarans
17 could have found unobjectional replacement counsel and there would
18 have been no need for defendants to temporarily protect their
19 rights. Instead, plaintiffs played hardball litigation tactics and
20 behaved totally unreasonable.^{10/} Accordingly, plaintiffs have
21 failed to mitigate their damages, which should be reduced
22 accordingly.

23
24 ^{2/} Defendants had previously represented the Aznarans at the
25 Plaintiffs' request, at the plaintiffs' expense, and in matters
26 of common interest with the plaintiffs. Moreover, the Aznarans and
27 defendants are social friends.

28 ^{10/} Quinn's behavior is all the more surprising in light of the
fact that his law partner, Margaret Morrow, chaired a recent L.A.
County Bar Committee which issued a report condemning 'hard ball
litigation tactics!

1 The Fourteenth Affirmative Defense (Waiver and Estoppel--of
2 the Attorney-Client Privilege) arises from a number of facts
3 including plaintiffs' unsuccessful prosecution of their complaint
4 in Yanny I, where the court also initially granted a preliminary
5 injunction and ultimately held against plaintiffs. In Yanny I,
6 this Court's Statement of Decision expressly found that the
7 attorney-client privilege had been waived.

8 The facts giving rise to the Fifteenth Affirmative Defense
9 (Waiver and Estoppel--Crime/Fraud Exception) pursuant to Evidence
10 Code §956, have been briefly discussed in relation to the Ninth
11 Affirmative Defense (Illegality), and the Tenth Affirmative Defense
12 (Fraud and Deceit).

13 The Sixteenth Affirmative Defense (Waiver and Estoppel--
14 Multiple Representation) is raised pursuant to Evidence Code §962
15 as a result of the defendants' earlier representation of the
16 Aznarans at the request of plaintiffs, with payment by plaintiffs
17 on matters of common interest with the plaintiffs. Accordingly,
18 this joint representation waives the attorney-client privilege as
19 between the defendants, plaintiffs and the Aznarans. In this
20 regard, it is noted that there was a subsequent civil proceeding
21 between "one of such clients and another of such clients,"^{11/} which
22 is the Aznaran case. Furthermore, as a result, the Aznarans were
23 former clients of the defendants to whom they owed professional
24 duties, in all the circumstances that were presented by the
25 allegations set forth with regard to the Ninth and Tenth
26 Affirmative Defenses (Illegality, Fraud and Deceit). Similarly,

27
28 ^{11/} Evidence Code § 962

1 these same circumstances also give rise to the Seventeenth
2 Affirmative Defense (Estoppel by Conduct).

3 The Eighteenth Affirmative Defense (Action Barred by Equity
4 and Civil Code Provisions) is self-explanatory. The Nineteenth
5 Affirmative Defense (Action Barred by Doctrine of Election of
6 Remedies) arises from plaintiffs' attempt to obtain both equitable,
7 contractual and tortious relief in violation of the Doctrine of
8 Election or Remedies.

9 The Twentieth Affirmative Defense (Privilege) is pleaded
10 pursuant to Civil Code §47 since the limited role of the defendants
11 with regard to the Aznaran case was plainly privileged pursuant to
12 Civil Code §47.

13 Similarly, with regard to the Twenty First Affirmative Defense
14 (Justification -- defense of another, interests of third persons
15 and the public) the conduct alleged of the defendants with regard
16 to the Aznaran case was also privileged and justified because it
17 was done in defense of others, the interests of third persons, the
18 interests of justice, and the interests of the public. The factual
19 basis for this affirmative defense is set forth with regard to the
20 Tenth Affirmative Defense (Fraud and Deceit) and the Ninth
21 Affirmative Defense (Illegality) particularly with regard to the Flynn-

22 type settlement agreements and the other acts of illegality and
23 intimidation which had the effect of significantly depleting the
24 pool of attorneys immediately available to represent the Aznarans
25 against the plaintiffs. Indeed, in the recent decision of Church
26 of Scientology v. Armstrong (1991) 232 Cal.App.3d 1060, 1062, 283
27 Cal.Rptr. 917, the Second Appellate District was reviewing the
28 decisions of the trial judge (Hon. Bruce R. Geernaert) and

1 expressly recognized that Gerald Armstrong had a privilege to
2 defend himself from the Church's harm and that "a similar privilege
3 is afforded an actor [such as Yanny] for the protection of third
4 persons." Yanny had a very reasonable apprehension of injury to
5 the Aznaran's interests based upon his own experiences, his
6 knowledge of plaintiffs and the conduct of those who are the
7 extensions of plaintiffs' attorneys.

8 The Twenty-Second Affirmative Defense likewise results from
9 the allegations set forth with regard to the Ninth and Tenth
10 Affirmative Defenses (Illegality, Fraud and Deceit). The
11 substantial relationship test necessarily involves a certain
12 balancing and some courts have held that counsel would not be
13 disqualified despite a substantial relationship between earlier and
14 subsequent adverse representation, where a drastic result (such as
15 the granting of summary judgment in the Aznaran case) would produce
16 unfair prejudice to the Aznarans as well as to the judicial system
17 in general. It was the plaintiffs' own intentional bad faith
18 conduct that produced the situation where the Aznarans were
19 unrepresented by counsel, facing a motion for summary judgment with
20 plaintiffs refusing to continue the hearing date and, in these
21 circumstances, the very realistic possibility that there would be a
22 drastic adverse result such as the granting of summary judgment
23 against them. This was only avoided by the procedural steps taken
24 by defendants in the interests of justice.

25 The Twenty-Third Affirmative Defense (Good Faith and Due
26 Diligence) also rises out of the circumstances created by
27 plaintiffs' own intentional bad faith conduct and the need for
28 defendants to aid in the defense of others, the interests of third

persons, the interests of justice and the interests of the public.

The Twenty-Fourth Affirmative Defense (First Amendment Protection and Commerce Clause) arises from the factual allegations made in the complaint, particularly with regard to Gerald Armstrong. In their application for injunctive relief, plaintiffs offered no evidence that would indicate a substantial relationship between anything defendants had previously done on behalf of plaintiffs and anything that was allegedly occurring between defendants and Gerald Armstrong. Nonetheless, the court granted a preliminary injunction against defendants with regard to Armstrong stating that [defendants'] "denial of such representation shows that he has no basis to protest issuance of a preliminary injunction against such representation." Preliminary Injunction entered herein September 18, 1991, p. 3, 14-16. As was apparent by the end of Yanny I, plaintiffs' second cause of action, and their request for permanent injunctive relief with regard to both the First and Second Causes of Action, are nothing more than thinly veiled attempts to limit and chill defendants' Constitutional Rights of Freedom of Speech and Assembly with friends who happen to be former Scientology members (such as the Aznarans and Armstrong), and to practice his religion with Gerald Armstrong. Moreover, if the court grants the injunctive relief sought by plaintiffs in all these circumstances, there would be a direct violation of the Commerce Clause of the Constitution of the United States.

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V. DEFENDANTS' DEPOSITION NOTICES AND SUBPOENAS AND PLAINTIFFS'
OBJECTION.

On January 22, 1992, defendants served deposition subpoenas duces tecum on the custodians of records of the law offices of Bowles & Moxon and Quinn, Kully & Morrow (Exhs. U & V). On January 25, 1992, defendants served a subpoena duces tecum on the custodian of records of William T. Drescher, Esq. and also a deposition subpoena on William T. Drescher, Esq (Exhs. W & X). Subsequently, and by arrangement, William T. Drescher, Esq. accepted service by mail of a deposition subpoena for John J. Quinn, Esq. (Exh.T.) The March 7, 1992 date for the deposition of John J. Quinn, Esq. had been previously agreed with Mr. Quinn and Mr. Drescher. On February 4, 1992, Defendants served a deposition subpoena on Laurie J. Bartilson, Esq. of the law firm of Bowles & Moxon. (Exh. X). The Bartilson deposition was noticed for February 18, 1992 and the Drescher deposition was noticed for February 12, 1992.

On February 7, 1992, plaintiffs served an objection to all of these depositions. (Exh. Z). Plaintiffs objected to the subpoena duces tecums on the basis that they "are excessively broad, burdensome, seek irrelevant materials, are harrassive, vague and ambiguous and seek confidential materials and materials protected by attorney-client and attorney-work product privileges." In their objection (Exh. Z) Plaintiffs also argued that:

"the proposed personal depositions of plaintiffs' counsel bear no relevance to the issues in the instant action and are not calculated to lead to the discovery of any relevant evidence. It is apparent that these depositions are excessively broad in nature, burdensome, and intrude upon areas protected by attorney-client and attorney product privileges. It is plain plaintiffs [sic] has sought these depositions of plaintiffs' counsel for the purpose of harrassment and to annoy and oppress the

deponents and parties and that the depositions are an unnecessary burden and expense in light of the issues in this action."

All that before one single deposition question had been asked!

Defendants then sought a "meet and confer" regarding plaintiffs' objection before filing a motion to compel the above depositions. Both plaintiffs and defendants expressed the view that a "meet and confer" before the appointed, in the capacity of mediator, referee in this litigation might resolve plaintiffs' problems, provide guidance and avoid the need for defendants to file a motion to compel.

VI. DEFENDANTS ARE ABSOLUTELY ENTITLED AS A MATTER OF LAW TO TAKE EACH OF THE DEPOSITIONS THEY HAVE NOTICED.

C.C.P. § 2017(a) provides, in pertinent part, that "unless limited by order of the court . . . any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved . . . if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of evidence." Emphasis added.

The courts have construed this section broadly so as to uphold the right to discovery wherever possible. Davis v. Superior Court (1984) 36 Cal.3d 291, 299, 204 Cal.Rptr. 154, 159. Furthermore, the phrase "relevant to the subject matter" is broader than relevancy to the issues (which determines admissibility of evidence at trial). Laddon v. Superior Court (1959) 167 Cal.App.2d 391, 334 P.2d 638, 640. Indeed, admissibility of evidence at trial is not required. Rather the test is whether the information sought might reasonably lead to other evidence that would be admissible. CCP

1 Section 2017(a), Davis v. Superior Court (1984) 36 Cal.3d 291, 301,
2 204 Cal.Rptr. 154, 161. Obviously, for discovery purposes,
3 information is "relevant to the subject matter" if it might
4 reasonably assist a party in evaluating the case preparing for
5 trial, or facilitating settlement of the case.

6 Accordingly, discovery extends to any information that
7 reasonably might lead to other evidence that would be admissible at
8 trial. The "relevance to the subject matter" and "reasonably
9 calculated to lead to discovery of admissible evidence" standards
10 are applied liberally. Moreover, doubt is generally resolved in
11 favor of permitting discovery. Colonial Life & Accident Insurance
12 Co. v. Superior Court (1982) 31 Cal.3d 785, 790, 183 Cal.Rptr. 810,
13 813, fn. 7-8. In addition, even "fishing trips" are permissible
14 under the discovery statute because it provides for discovery of
15 matters "reasonably calculated to lead to discovery of admissible
16 evidence." C.C.P. Section 2017(a). Furthermore, even hearsay
17 evidence may be sought because the hearsay statements might
18 reasonably lead to other evidence that would be admissible. Of
19 specific significance to the case at bar, the crime/fraud exception
20 to the attorney-client privilege (Evidence Code Section 956) even
21 operates to permit discovery of communications which might
22 otherwise be privileged. United States v. Zolin (1989) 491 U.S.
23 554 109 S.Ct. 2619, 2631, (former Scientologist obtained tapes of
24 conversations between Scientology officials and their attorney).

25 There is also judicial authority specifically holding that
26 these depositions may be taken. In Fireman's Fund Ins. Co. v.
27 Superior Court (1977) 72 Cal.App.3d 786, 140 Cal.Rptr. 677, the
28 second district ordered the deposition of opposing counsel where

1 that counsel was one of the principal witnesses to events which
2 triggered the litigation. In the case at bar Drescher and Quinn
3 constitute two thirds of the witnesses to the events triggering the
4 conduct giving rise to the first cause of action and many of the
5 defendants' affirmative defenses!

6 As far as the noticed depositions in issue are concerned,
7 there can be no legitimate objection because a court appointed
8 referee will be present at the depositions to rule upon appropriate
9 objections and prevent persistent questioning on matters which are
10 properly subject of an objection such as attorney client or
11 attorney work product privileges.

12 VII. THE NOTICED DEPOSITIONS IN ISSUE ARE REASONABLY CALCULATED
13 TO LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE.

14 As the declarations of John J. Quinn, Esq. and William T.
15 Drescher, Esq. clearly demonstrate (Exhs. A & B), they are
16 percipient witnesses to the very matters which give rise to this
17 litigation, as described defendants' ninth and tenth affirmative
18 defenses. Exh. O. Their very own declarations filed in support of
19 plaintiffs' motion to disqualify Yanny in the Aznaran case (Exhs. A
20 & B) clearly evidence not only the propriety of defendants'
21 discovery on these matters but their very admissibility at trial.
22 Indeed, nothing is more evident and certain than the fact that John
23 J. Quinn, Esq., William T. Drescher, Esq. and Barry Van Sickle,
24 Esq. will be among the most important trial witnesses in this case.

25 Plaintiffs are also seeking over \$1 million in compensatory
26 damages. Complaint, para. 27. Exh. N. It seems clear that a
27 portion of plaintiffs' claimed damages, are their legal fees and
28

1 costs associated with their motion to disqualify defendants, with
2 regard to which they unsuccessfully requested sanctions, and their
3 motion for a preliminary injunction herein. For that reason, the
4 subpoenas duces tecum Exhs. U, W & Y) served upon the custodians of
5 record of the three plaintiff law firms are entirely proper.
6 Furthermore, questions of John J. Quinn, Esq., William T. Drescher,
7 Esq. and Laurie J. Bartilson, Esq. as to the cost, scope and
8 reasonableness of the legal services provided to plaintiffs for
9 which plaintiffs are claiming damages are also entirely proper. Of
10 necessity, this entails asking questions which may be invasive of
11 the attorney-client privilege. However, such questions are
12 entirely proper. Plaintiffs may either refuse to answer those
13 questions on the ground of attorney-client privilege or they may
14 answer them and waive the privilege. Either way their decision has
15 important evidentiary consequences at trial. If they waive the
16 privilege and answer questions regarding the cost, scope and
17 reasonableness of the legal services they provided to plaintiffs,
18 then plaintiffs may properly present such evidence at trial in
19 support of their claim for damages. If they assert the attorney-
20 client privilege and refuse to answer such questions, as they are
21 entitled to do, then such refusal will have important adverse
22 evidentiary consequences at trial. Either way, defendants are
23 entitled to ask proper questions as to claimed damages and
24 plaintiffs are entitled to either answer or raise proper
25 objections. If such objections are made, then deposition
26 questioning on the damage issues will be very brief.

27 In this case, there can be absolutely no basis for any court
28 order that these depositions not proceed. Quite apart from the

1 matters discussed above, the court has appointed a referee who must
2 preside over all depositions in Los Angeles County and who may
3 preside over depositions outside of Los Angeles County. This
4 appointment was made to avoid further discovery disputes being
5 presented to the trial court. The appointment also ensures that
6 discovery abuses do not take place during deposition questioning.
7 If there is but one single proper question that defendants may ask
8 of any of these witnesses, they are entitled to take their
9 deposition. The referee's presence will ensure that only proper
10 questions are answered and that improper questions are not
11 persistently asked. Accordingly, the presence of the court
12 appointed referee at these depositions ensures that none of the
13 things alleged in plaintiffs' objection occur.

14 In the past, plaintiffs have made much of the fact that
15 Kendrick L. Moxon, Esq. was not asked a damage question at his
16 deposition. The Moxon deposition was taken by defendants'
17 predecessor attorneys in this litigation. We would have asked him
18 damage questions. They didn't. Notwithstanding, that is no basis
19 for denying defendants the discovery they now seek to take.

20
21 **VIII. CONCLUSION**

22 For the foregoing reasons, the referee is urged to exercise
23 his mediation role in this matters by encouraging plaintiffs to
24 proceed with these depositions in the protective presence of the
25 referee appointed herein. A motion to compel, and any subsequent
26 motion for de novo review, will only further derail the scheduled
27 trial date of April 27, 1992.

1 Dated: February 20, 1992

LEWIS, D'AMATO, BRISBOIS & BISGAARD

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BY Graham E. Berry

GRAHAM E. BERRY

Attorneys for Defendants JOSEPH A.
YANNY, an individual, and JOSEPH A.
YANNY, a professional law corporation

MT&CONF.E.MOT

LEWIS, D'AMATO
BRISBOIS & BISGARD
LAWYERS
SUITE 1200
221 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012
(213) 250-1800

1 LEWIS, D'AMATO, BRISBOIS & BISGARD
2 DAVID B. PARKER
3 GRAHAM E. BERRY
4 JAYESH PATEL
5 221 North Figueroa Street, Suite 1200
6 Los Angeles, California 90012
7 (213) 250-1800
8 JOSEPH A. YANNY, ESQ.
9 1925 Century Park East
10 Suite 1260
11 Los Angeles, California 90067
12 (213) 551-2966
13 PATRICK K. SMITH, ESQ.
14 1408 Talbot Tower
15 131 N. Ludlow Street
16 Dayton, Ohio 45402-1773
17 (513) 222-6926
18 Attorneys for Defendants JOSEPH A. YANNY,
19 an individual and JOSEPH A. YANNY, a
20 Professional Law Corporation
21 SUPERIOR COURT OF THE STATE OF CALIFORNIA
22 COUNTY OF LOS ANGELES
23 No. BC 033035

24 APPENDIX OF EXHIBITS TO
25 DEFENDANTS' "MEET & CONFER"
26 STATEMENT REGARDING DEFENDANTS'
27 QUINN, WILLIAM T. DRESCHER AND THE
28 LAURIE J. BARTILSON AND THE
29 CUSTODIAN OF RECORDS OF THEIR
30 RESPECTIVE LAW FIRMS
31 Time: 9:00 a.m.
32 Date: February 21, 1992
33 Place: J.A.M.S., Santa Monica
34 Referee: Hon. Thomas T. Johnson
35 Motion Cutoff: Mar. 27, 1992
36 Discovery Cutoff: Mar. 27, 1992
37 Trial Date: Apr. 27, 1992
38 Dept.: 41
39 [Filed Concurrently With
40 Appendix of Exhibits]

INDEX TO EXHIBITS

- 1 A. Declaration of John J. Quinn, Esq. executed July 8, 1991.
2 B. Declaration of William T. Drescher, Esq. executed July 9,
3 1991.
4 C. Declaration of Barry Van Sickle, Esq. executed July 1, 1991.
5 D. Declaration of Barry Van Sickle, Esq. executed January 23,
6 1992.
7 E. Declaration of Joseph A. Yanny, Esq. executed July 1, 1991.
8 F. Declaration of Kendrick L. Moxon, Esq. executed July 18, 1991.
9 G. Declaration of Vicki J. Aznaran executed July 1, 1991.
10 H. Declaration of Richard N. Aznaran executed July 1, 1991.
11 I. Complaint: Vicki J. Aznaran, et al. v. Church of Scientology,
12 Inc., et al., U.S.D.C. C.D. Ca. Case No. CV 88-1786 WDK.
13 J. August 30, 1991 order of Hon. James M. Ideman in the Aznaran
14 case re "outrageous litigation tactics."
15 K. Reporter's transcript of proceedings, December 23, 1991,
16 Church of Scientology v. Gerald Armstrong. (Hon. Bruce R.
17 Geernaert).
18 L. TIME Magazine article, May 6, 1991.
19 M. Statement of Decision, "Yanny I," July 18, 1990.
20 N. Complaint herein ("Yanny II").
21 O. First Amended Answer herein ("Yanny II").
22 P. Declaration of Joseph A. Yanny executed July 13, 1988.
23 Q. Affidavit of Gerald Armstrong executed March 19, 1986.
24 R. Affidavit of Michael J. Flynn executed September 21, 1983.
25 S. Declaration of Gerald Armstrong executed September 3, 1991.
26 T. Notice of Deposition of John J. Quinn, Esq.
27 U. Notice of Deposition of Custodian of Records of Quinn, Kully &
28

1 Morrow.

2 V. Notice of Deposition of William T. Drescher, Esq.

3 W. Notice of Deposition of Custodian of Records of William T.

4 Drescher, Esq.

5 X. Notice of Deposition of Laurie J. Bartilson, Esq.

6 Y. Notice of Deposition of Custodian of Records of Bowles & Moxon

7 Z. Plaintiffs' objection to Deposition Subpoenas, etc.

8 AA. Responses and Objection to [Form] Interrogatories by Church of

9 Scientology International.

10 BB. Responses and Objections to [Form] Interrogatories by

11 Religious Technology Center.

12 CC. Responses and objections to [Form] Interrogatories by Church

13 of Scientology of California.

LEWIS, D'AMATO, BRISBOIS & BISGAARD

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

LAWYERS

SUITE 1200

221 NORTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90012

TELEPHONE (213) 250-1800

TELEX: 184508

FACSIMILES:

LOS ANGELES: (213) 250-7900

SAN DIEGO: (619) 233-8627

SAN FRANCISCO: (415) 434-0882

ORANGE COUNTY: (714) 850-1030

SAN BERNARDINO: (714) 387-1138

SAN FRANCISCO OFFICE

SUITE 1800

601 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 382-2580

INLAND EMPIRE OFFICE

TRI-CITY CORPORATE CENTRE
SUITE 850650 EAST HOSPITALITY LANE
SAN BERNARDINO, CALIFORNIA 92408
TELEPHONE (714) 387-1130

SAN DIEGO OFFICE
SUITE 900
850 WEST "C" STREET
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 233-1008

ORANGE COUNTY OFFICE
SUITE 1400
850 TOWN CENTER DRIVE
CENTER TOWER BUILDING
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 545-9200

TELECOPIER COVER LETTER

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DATE: March 19, 1992

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HUB LAW OFFICES

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GRAHAM E. BERRY, ESQ.

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04
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JUL 18 1991

COUNTY CLERK.

1 John J. Quinn
2 QUINN, KULLY AND MORROW
3 520 S. Grand Ave., 8th Floor
4 Los Angeles, CA 90071
5 (213) 622-0300

6 Attorneys for Plaintiff
7 CHURCH OF SCIENTOLOGY INTERNATIONAL

8 William T. Drescher
9 23679 Calabasas Road, Suite 338
10 Calabasas, CA 91302
11 (818) 591-0039

12 Attorney for Plaintiff
13 RELIGIOUS TECHNOLOGY CENTER

14 Laurie J. Bartilson
15 Helena K. Kobrin
16 BOWLES & MOXON
17 6255 Sunset Blvd., Suite 2000
18 Los Angeles, CA 90028
19 (213) 661-4030

20 Attorneys for Plaintiff
21 CHURCH OF SCIENTOLOGY OF CALIFORNIA

BC032035

BC032035

22 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
23 COUNTY OF LOS ANGELES

24 RELIGIOUS TECHNOLOGY CENTER,
25 A California Non-Profit Religious
26 Corporation; CHURCH OF SCIENTOLOGY
27 INTERNATIONAL, a California
28 Non-Profit Religious Corporation;
and CHURCH OF SCIENTOLOGY OF
CALIFORNIA, a California
Non-Profit Religious Corporation,

Plaintiffs,

vs.

JOSEPH A. YANNY, an individual;
JOSEPH A. YANNY, a professional Law
Corporation and DOES 1 THROUGH 25
inclusive,

Defendants.

NO.

VERIFIED COMPLAINT FOR
DAMAGES AND FOR
TEMPORARY, PRELIMINARY
AND PERMANENT
INJUNCTIVE RELIEF FOR
BREACH OF FIDUCIARY
DUTY

05

1 Plaintiffs RELIGIOUS TECHNOLOGY CENTER, CHURCH OF
2 SCIENTOLOGY INTERNATIONAL and CHURCH OF SCIENTOLOGY OF
3 CALIFORNIA, for their Verified Complaint against defendants,
4 JOSEPH A. YANNY and JOSEPH A. YANNY, A PROFESSIONAL LAW
5 CORPORATION, allege as follows:

6 1. This action arises from direct, overt, and intention
7 breaches by defendants of the perpetual duties of loyalty and
8 confidentiality which a member of the Bar of the State of
9 California owes as fiduciary obligations to his former client
10 since entry of judgment in Religious Technology Center, et al
11 v. Joseph A. Yanny, et al., Los Angeles Superior Court Case
12 No. C 690 211, on February 28, 1991, defendants have flagrant
13 violated those fiduciary duties by openly assuming
14 representation, as counsel of record and otherwise, of client
15 in legal matters in a manner that directly contravenes
16 plaintiffs' statutory rights. By this action, plaintiffs see
17 to enjoin their former counsel from committing further
18 breaches of his ongoing fiduciary duties and to obtain damage
19 for those breaches which he has committed, as is further alle
20 with particularity herein.

21 THE PARTIES

22 2. Plaintiff RELIGIOUS TECHNOLOGY CENTER ("RTC") is, at
23 at all relevant times was, a not-for-profit religious
24 corporation organized and existing under the laws of the Stat
25 of California with its principal office in Los Angeles,
26 California.

27 3. Plaintiff CHURCH OF SCIENTOLOGY INTERNATIONAL ("CSI"
28 is, and at all relevant times was, a California not-for-profit

1 religious corporation organized and existing under the laws o
2 the State of California with its principal office in Los
3 Angeles, California.

4 4. Plaintiff CHURCH OF SCIENTOLOGY OF CALIFORNIA ("CSC")
5 is, and at all relevant times was, a California not-for-profit
6 religious corporation organized and existing under the laws
7 of the State of California with its principal office in Los
8 Angeles, California.

9 5. Defendant JOSEPH A. YANNY is, and at all relevant
10 times was, an attorney licensed to practice law in the State
11 California. Yanny is a resident of Hermosa Beach, California

12 6. Defendant JOSEPH A. YANNY, A PROFESSIONAL LAW
13 CORPORATION is, and at all relevant times was, a professional
14 corporation organized and existing under the laws of the Stat
15 of California, with its principal office in Los Angeles,
16 California. Defendants JOSEPH A. YANNY and JOSEPH A. YANNY,
17 PROFESSIONAL LAW CORPORATION, shall hereinafter be referred t
18 collectively as "Yanny."

19 7. Plaintiffs are ignorant of the names and capacities
20 the defendants identified as DOES 1 through 25, inclusive, an
21 thus brings suit against those defendants by those fictitious
22 names. Plaintiffs will seek leave of Court to amend this
23 Complaint to include those defendants by their true names upo
24 the ascertainment of their true names and capacities, and the
25 responsibility for the conduct alleged herein.

26 DEFENDANTS' HISTORY AS PLAINTIFFS' COUNSEL

27 8. Yanny formerly represented and appeared as counsel
28 record for the plaintiffs in a number of litigation matters,

1 including, Religious Technology Center, et al. v. Scott,
2 et al. and Religious Technology Center, et al. v.
3 Wollersheim, et al., (United States District Court for the
4 Central District of California, Civil Action Nos. 85-711 and
5 85-7197 JMI(Bx)) (hereinafter "RTC v. Scott"); Church of
6 Scientology International, et al. v. The Elmira Mission of
7 the Church of Scientology, et al., (United States District
8 Court for the Western District of New York, Civil Action No.
9 85-0412(T), and United States Court of Appeals for the Second
10 Circuit No., 85-7693); Church of Scientology of California
11 v. David Jordan, et al., Superior Court of the State of
12 California for the County of Los Angeles, No. C 538 049; and
13 Clay Eberle, et al. v. Church of Scientology of
14 California, Superior Court of the State of California for the
15 County of Los Angeles, No. NCC 16648G.

16 9. Yanny represented RTC, CSI and CSC, as their attorney
17 extensively often approaching a full-time basis, for
18 approximately four years, between 1983 and 1987.

19 Indeed, Yanny has testified under oath to the extensive a
20 in-depth character of the responsibilities he assumed as legal
21 counsel for plaintiffs, characterizing his various duties and
22 responsibilities as follows:

23 (a) "[T]o control and oversee all of the litigation that
24 involved Scientology any place in the world ..."

25 (b) "I also oversaw the administrative side, what they call
26 the transactional side of their legal business where they entered
27 agreements with franchises or mission holders, depending on
28 where they were located;"

1 (c) "I oversaw prosecution of trademark applications all
2 over the world, United States, foreign countries. I reviewed
3 all of those things;

4 (d) "I was also to, if there were any flaps, as they were
5 called, any problems that arose, I was usually broached on what
6 the problem was, what was expected, and asked for solutions to
7 those types of things ..."

8 10. Throughout his legal representation of plaintiffs,
9 Yanny was regularly called upon by his clients to provide
10 advice, counsel, assistance, and judgment as a lawyer with
11 respect to litigation, transactional, and intellectual property
12 matters irrespective of whether he actually appeared as counsel
13 of record in such matters. As such, and throughout his tenure
14 as plaintiff's lawyer, Yanny was privy to and called upon to
15 provide, and did provide legal services to plaintiffs on
16 essentially all of plaintiffs' legal matters for nearly four
17 years. In exchange for the legal services so rendered, as set
18 forth in this and in the preceding paragraph of this Complaint
19 Yanny was compensated at an hourly rate, ultimately in a
20 cumulative amount in excess of \$2 million.

21 11. Upon entering into this attorney-client relationship
22 with plaintiffs, Yanny assumed all of the fiduciary and ethical
23 obligations that are component parts of any attorney-client
24 relationship, including, without limitation, the duties of
25 loyalty, diligence, fidelity, honesty, and confidentiality.
26 Those obligations, by operation of statute, rule and common law
27 embrace the following fiduciary duties, which represent a
28 selective, rather than all-inclusive list:

DEC-13-91

1 (a) to accept no employment adverse to plaintiffs'
2 interests in matters substantially related to his
3 representation of plaintiffs, either during or after the peri-
4 of the parties' actual attorney-client relationship; and
5 (b) to keep all communications and information provided
6 plaintiffs or by plaintiffs' agents and employees in the caus
7 of the representation inviolate and confidential, both during
8 and after the period of the parties' actual attorney-client
9 relationship.

10 12. During the course of Yanny's legal representation o
11 plaintiffs, and in reliance upon the fiduciary obligations of
12 fidelity, loyalty, and confidentiality inherent in the
13 attorney-client relationship, plaintiffs divulged
14 extensive strategic, confidential, and proprietary informatio
15 to Yanny in the course of seeking and receiving legal advice
16 from Yanny. Information so divulged included, but was not
17 limited to, offensive and defensive legal strategies and
18 approaches to various and recurring legal claims; non-public,
19 financial information; confidential religious and scriptural
20 information, and various other confidential and proprietary
21 information that plaintiffs divulged to Yanny so that he coul
22 perform competently as plaintiffs' legal counsel in the many
23 legal areas for which he had responsibility.

24 13. Yanny represented RTC, CSI, and CSC in several
25 lawsuits brought by former Scientologists in which those pers
26 sought recovery from plaintiffs or some of them upon theories
27 fraud and intentional infliction of emotional distress. Yanr
28 was: (a) closely involved in the formulation and refinement c

1 legal strategies employed by plaintiffs to defendant against
2 such baseless claims; and b) routinely involved in, and called
3 upon to develop solutions for various legal issues, at
4 periodical attorney-client conferences in which counsel
5 representing Scientology churches discussed pending litigation;
6 legal strategies and the strengths and potential weaknesses of
7 the Scientology position in the various matters.

8 14. The attorney-client relationship between plaintiffs
9 and Yanny was terminated in or about December, 1987, although
10 by his failure to execute the appropriate Judicial Council
11 forms, Yanny remained counsel of record for CSC in two cases
12 thereafter.

13 15. Since on or about June 28, 1991, Yanny has appeared
14 as counsel of record for Vicki and Richard Aznaran in an action
15 being prosecuted by the Aznarans against RTC, CSI and others,
16 entitled, Vicki Aznaran et al vs. Church of Scientology of
17 California, and assigned case number C 88-1786 JMI (Ex) by the
18 United States District Court for the Central District of
19 California ("the Aznaran case."). During the pendency of an
20 earlier action in this Court entitled Religious Technology
21 Center et al. v. Joseph A. Yanny et al., case number C 690
22 211 ("Yanny 1"), Yanny was enjoined pendente lite from
23 representing or providing legal counsel to the Aznarans in the
24 Aznaran case. That provisional relief was lifted upon entry of
25 final judgment by this Court in Yanny 1 on February 28, 1991.
26 Like a number of substantially similar cases described in the
27 preceding paragraph of this Complaint, the Aznaran case is one
28 in which ex-Scientologists have sued these plaintiffs upon

1 theories of fraud and emotional distress. A motion to
2 disqualify Yanny from representing the Aznarans in the Aznaran
3 case is presently pending in that case.

4 16. During the time in which Yanny was plaintiff's
5 counsel, plaintiffs were actively engaged in litigation in the
6 matter of Church of Scientology of California v. Gerald
7 Armstrong, Los Angeles Superior Court Case Number C 420 153,
8 California Court of Appeal Case Number B 038 975.

9 Yanny's legal advice and counsel were sought and obtained
10 by plaintiffs with respect to Gerald Armstrong, including the
11 Armstrong case, settlement negotiations relating to it, parties
12 settlement thereof, and the appeal therefrom. Yanny also was
13 fully briefed upon, and his legal advice was sought and
14 obtained by plaintiffs concerning the ongoing disputes between
15 Armstrong and plaintiffs and the strategies to be employed by
16 plaintiffs in dealing with those disputes. On July 15, 1991,
17 Yanny and Armstrong informed a partner of the law firm
18 representing CSC in this action that Yanny was now Armstrong's
19 lawyer.

20 FIRST CAUSE OF ACTION

21 (Against all Defendants for Breach of Fiduciary Duty)---

22 17. RTC, CSI and CSC repeat, reallege and incorporate
23 herein by this reference each and every allegation contained in
24 paragraphs 1 through 16, inclusive, of this complaint.

25 18. On April 1, 1988, Vicki Aznaran, the former president
26 of RTC, and her husband, Richard Aznaran, a former employee of

27 ///

28 ///

1 CSI, filed the Aznaran case, in which they seek damages from
2 plaintiffs upon theories that include fraud and emotional
3 distress. The Aznaran case raises many issues which are
4 substantially related to matters concerning which Yanny
5 represented plaintiffs, in particular, but without
6 limitation, the counterclaims against RTC, CSI and CSC in
7 RTC v. Scott, in which Yanny served as lead counsel for
8 plaintiffs.

9 19. The Aznaran case was initially filed on the
10 Aznarans' behalf by Barry Van Sickle, an attorney whom Yanny
11 located for the Aznarans and who also represented Yanny in
12 Yanny 1 in this Court. Mr. Van Sickle was disqualified by the
13 Court in the Aznaran case because he was "an extension of
14 Joseph Yanny's continuing involvement in [the Aznaran case],"
15 which the Court found to be improper. The Aznarans then
16 employed another counsel to represent them in that case until
17 June, 1991, when they discharged him.

18 20. On Friday, June 28, 1991, counsel for CSI, John J.
19 Quinn, received a telephone call from Yanny. In that call,
20 Yanny stated that he intended to substitute into the Aznaran
21 case as counsel for the Aznarans, and requested that Mr. Quinn
22 agree to an extension of "45 to 60 days" to oppose a pending
23 summary judgment motion. Mr. Quinn informed Yanny that he
24 considered Yanny's proposed representation of the Aznarans to
25 outrageous and improper, and informed Yanny that he would
26 consult with his client and with co-counsel before agreeing to
27 anything.

28 21. When, on Monday, July 1, 1991, Mr. Quinn informed

1 Yanny that he still considered Yanny's proposed representation
2 unethical, and that neither he nor any or these plaintiffs would
3 agree to any such extension to permit Yanny to come into the
4 case, Yanny informed Mr. Quinn that he had already requested
5 and obtained the Aznaran Court's permission to represent the
6 Aznarans on an ex parte basis, without notice to any of the
7 opposing parties.

8 On July 2, 1991, Mr. Quinn checked with the clerk of the
9 Aznaran Court and found that the Court apparently signed
10 Yanny's substitution on or about June 28, 1991.

11 22. Counsel for RTC and CSI in that case promptly
12 prepared and, on July 3, 1991, filed, a motion to disqualify
13 Joseph Yanny from representing the Aznarans in the Aznaran
14 case. That motion is now pending.

15 23. While that motion to disqualify has been pending,
16 Yanny has filed several papers in the Aznaran case on behalf
17 of the Aznarans, made overtures to counsel for RTC, CSI, Church
18 of Spiritual Technology ("CST") and Author Services, Inc.
19 ("ASI") indicating a desire to discuss settlement on behalf of
20 the Aznarans, and otherwise conducted himself as the Aznarans'
21 counsel both of record and in fact.

22 24. As an attorney with a long-term, broad ranging
23 professional relationship with RTC, CSI, and CSC, Yanny owes a
24 fiduciary duty to RTC, CSI, and CSC that persists beyond the
25 termination of that relationship, in the same manner that all
26 attorneys owe such a duty to all of their clients, present and
27 former. That fiduciary duty creates obligations of the utmost
28 loyalty and confidentiality and the duty not to compromise the

1 interest of the former client.

2 25. Since at least June of 1991, Yanny has breached and
3 continues to breach his fiduciary duty to RTC, CSI, and CSC in
4 the manner and through the conduct set forth in this Complaint
5 in that Yanny, among other things:

6 (a) Counseled, advised, and otherwise provided legal
7 services to the Aznarans, who are persons with interests
8 adverse to plaintiffs in a matter substantially related to
9 matters in which Yanny formerly represented plaintiffs;

10 (b) Undertook direct representation of the Aznarans
11 against RTC, CSI, and other Scientology-affiliated
12 organizations as counsel of record in the Aznaran case in
13 direct violation of the fiduciary duty of loyalty that is
14 perpetual and sacrosanct with respect to a lawyer's former
15 clients; and

16 (c) Traded upon the attorney-client communications he
17 received while serving as plaintiff's lawyer by counseling and
18 advising the Aznarans and by serving as their attorney of record
19 and in fact, in direct violation of his perpetual fiduciary
20 duties of loyalty and confidentiality to his former clients.

21 26. As a direct and proximate result of Yanny's
22 persistent and continuing breaches of his fiduciary duties, RTC,
23 CSI, and CSC have been, are and will continue to be irreparably
24 harmed, and unless Yanny and those acting in concert with him
25 are temporarily, preliminarily, and permanently enjoined from
26 continuing that unlawful conduct, further irreparable injury
27 will be caused to RTC, CSI, and CSC.

28 27. RTC, CSI, and CSC have already incurred, and continue

1 to incur, damages as a direct and proximate result of Yanny's
2 conduct as alleged in this Complaint. Those damages are not
3 presently calculable and will cease only when Yanny is ordered
4 to stop his unlawful conduct. In no event, however, are they
5 less than \$1,000,000.00. Consequently, plaintiffs seek
6 compensatory damages according to proof.

7 28. Yanny's conduct is both oppressive and malicious and
8 has been undertaken for the express purpose of injuring
9 plaintiffs, his former clients. Accordingly, plaintiffs are
10 entitled to punitive and exemplary damages in an amount to be
11 determined at trial.

12 SECOND CAUSE OF ACTION

13 (Against All Defendants for Breach of Fiduciary Duty)

14 29. RTC, CSI and CSC repeat, reallege and incorporate
15 herein by this reference each and every allegation contained in
16 paragraphs 1 through 16, inclusive, of this Complaint.

17 30. On July 15, 1991, Yanny and Gerald Armstrong admitted
18 to a partner in the law firm representing CSC, Kendrick Moxon,
19 that Yanny had now undertaken legal representation of Armstrong.

20 31. Yanny knows that Armstrong is presently engaged in
21 litigation adverse to plaintiffs, including the appeal of
22 the very case in which Yanny's advice and counsel was sought and
23 obtained by CSC and by RTC, as alleged in paragraph 16 of this
24 Complaint.

25 32. As an attorney with a long-term, broad ranging
26 professional relationship with RTC, CSI, and CSC, Yanny owes a
27 fiduciary duty to RTC, CSI, and CSC that persists beyond the
28 termination of that relationship, in the same manner that all

1 attorneys owe such a duty to all of their clients, present and
2 former. That fiduciary duty creates obligations of the utmost
3 loyalty and confidentiality and the duty not to compromise the
4 interest of the former client.

5 33. Since at least July of 1991, Yanny has breached and
6 continues to breach his fiduciary duty to RTC, CSI, and CSC in
7 the manner and through the conduct set forth in this Complaint
8 in that Yanny, among other things:

9 (a) Counseled, advised, and otherwise provided legal
10 services to Armstrong, who is a person with interests
11 adverse to plaintiffs in a matter substantially related
12 to matters in which Yanny formerly represented
13 plaintiffs;

14 (b) Undertook direct representation of Armstrong against
15 RTC, CSI, and other Scientology-affiliated organizations in
16 direct violation of the fiduciary duty of loyalty that is
17 perpetual and sacrosanct with respect to a lawyer's former
18 clients; and

19 (c) Traded upon the attorney-client communications he
20 received while serving as plaintiff's lawyer by counseling and
21 advising Armstrong in direct violation of his perpetual
22 fiduciary duties of loyalty and confidentiality to his former
23 clients.

24 34. As a direct and proximate result of Yanny's
25 persistent and continuing breaches of his fiduciary duties, RTC
26 CSI, and CSC have been, are and will continue to be irreparably
27 harmed, and unless Yanny and those acting in concert with him
28 are temporarily, preliminarily, and permanently enjoined from

1 continuing that unlawful conduct, further irreparable injury
2 will be caused to RTC, CSI, and CSC.

3 35. RTC, CSI, and CSC have already incurred, and continu
4 to incur, damages as a direct and proximate result of Yanny's
5 conduct as alleged in this Complaint. Those damages are not
6 presently calculable and will cease only when Yanny is ordered
7 to stop his unlawful conduct. In no event, however, are they
8 less than \$1,000,000.00. Consequently, plaintiffs seek
9 compensatory damages according to proof.

10 36. Yanny's conduct is both oppressive and malicious
11 and has been undertaken for the express purpose of injuring
12 plaintiffs, his former clients. Accordingly, plaintiffs are
13 entitled to punitive and exemplary damages in an amount to be
14 determined at trial.

15 WHEREFORE, plaintiffs pray for judgment as follows:

16 ON THE FIRST CAUSE OF ACTION
17 (REGARDING THE AZNARANS)

18 1. For a temporary restraining order, preliminary
19 injunction and a permanent injunction enjoining Yanny from
20 violating the fiduciary duties he owes to plaintiffs as a res
21 of their earlier attorney-client relationship.

22 2. For compensatory damages according to proof.

23 3. For punitive and exemplary damages in a sum to be
24 determined at trial.

25 ON THE SECOND CAUSE OF ACTION
26 (REGARDING ARMSTRONG)

27 1. For a temporary restraining order, preliminary
28 injunction and a permanent injunction enjoining Yanny from
violating the fiduciary duties he owes to Plaintiffs as a res

1 of their earlier attorney-client relationship.

2 2. For compensatory damages according to proof.

3 3. For punitive and exemplary damages in a sum to be
4 determined at trial.

5 ON ALL CAUSES OF ACTION:

6 1. For such other and further relief as the Court may
7 deem just and proper.

8 DATED: July 18, 1991

Respectfully submitted,

9
10 By: /s/

WILLIAM T. DRESCHER

11 Attorney for Plaintiff
RELIGIOUS TECHNOLOGY CENTER

12 John J. Quinn
13 QUINN, KULLY AND MORROW

14 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
15 INTERNATIONAL

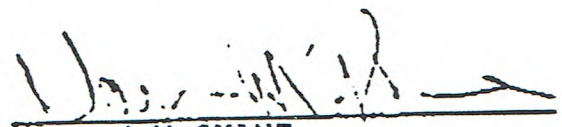
16 BOWLES & MOXON
Laurie J. Bartilson

17 Attorneys for Plaintiff
18 CHURCH OF SCIENTOLOGY OF
19 CALIFORNIA
20
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28

VERIFICATION

I, Warren McShane, am the Secretary of the Religious Technology Center, plaintiff in this action. I have read the foregoing Verified Complaint for Damages and for Temporary, Preliminary and Permanent Injunctive Relief for Breach of Fiduciary Duty and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

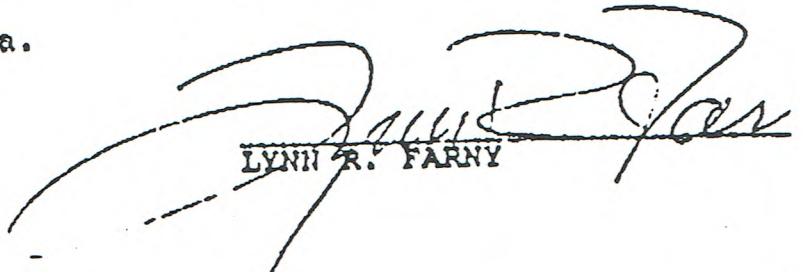
I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of July, 1991, at Los Angeles, California.


WARREN MCSHANE

VERIFICATION

1
2 I, Lynn R. Farny, am the Secretary of the Church of
3 Scientology International, plaintiff in this action. I have
4 read the foregoing Verified Complaint for Damages and for
5 Temporary, Preliminary and Permanent Injunctive Relief for
6 breach of fiduciary duty and know the contents thereof. The
7 same is true of my own knowledge, except as to those matters
8 which are therein stated on information and belief, and as to
9 those matters, I believe them to be true.

10 I declare under penalty of perjury that the foregoing is
11 true and correct. Executed this 18th day of July, 1991, at
12 Los Angeles, California.

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28
LYNN R. FARNY

1 LEWIS, D'AMATO, BRISBOIS & BISGAARD
2 DAVID B. PARKER
3 GRAHAM E. BERRY
4 JAYESH PATEL
221 North Figueroa Street, Suite 1200
Los Angeles, California 90012
(213) 250-1800

5 Attorneys for Defendants JOSEPH A. YANNY, an individual
6 and JOSEPH A. YANNY, a Professional Law Corporation

7 JOSEPH A. YANNY, ESQ.
8 1925 Century Park East
Suite 1260
Los Angeles, California 90067
(213) 551-2966

9 PATRICK K. SMITH, ESQ.
10 1408 Talbott Tower
11 131 N. Ludlow Street
Dayton, Ohio 45402-1773

12 Attorneys for Defendants and Cross-Complainants JOSEPH
13 A. YANNY, an individual and JOSEPH A. YANNY, a
Professional Law Corporation

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES

16 RELIGIOUS TECHNOLOGY CENTER, a) No. BC 033035
17 California Non-Profit Religious)
18 Corporation; CHURCH OF) ~~REVISED PROPOSED~~ DEFENDANTS'
19 SCIENTOLOGY INTERNATIONAL, a) VERIFIED FIRST AMENDED ANSWER
20 California Non-Profit Religious) TO PLAINTIFFS' VERIFIED
21 Corporation; and CHURCH OF) COMPLAINT. DEMAND FOR JURY
22 SCIENTOLOGY OF CALIFORNIA, a) TRIAL
23 California Non-Profit Religious)
24 Corporation,) Motion Cutoff Date:
25) March 27, 1992
26 Plaintiffs,)
27 vs.) Discovery Cutoff:
28) March 27, 1992
29 JOSEPH A. YANNY, an Individual;) Trial Date: April 27, 1992
30 JOSEPH A. YANNY, a Professional) Time: 8:30 a.m.
31 Law Corporation and DOES 1) Dept: 41
32 through 25, Inclusive,)
33 Defendants.)

34 //

35 //

1 Defendants Joseph A. Yanny, an individual, and Joseph A.
2 Yanny, a professional law corporation ("collectively "defendants"),
3 provide the following verified first amended response to
4 plaintiffs' verified complaint in this matter.

5 1. Answering paragraph 1 of plaintiffs' complaint, defendants
6 admit that judgment was entered in the case entitled Religious
7 Technology Center, et al. v. Joseph A. Yanny, et al., Los Angeles
8 Superior Court Case No. C690211, on February 28, 1991, and that
9 plaintiffs were resoundingly defeated in that case. Except as
10 expressly admitted above, defendants deny, generally and
11 specifically, each and every allegation of Paragraph 1 of
12 plaintiffs' complaint.

13 2. Answering Paragraph 2 of plaintiffs' complaint, defendants
14 admit that Plaintiff Religious Technology Center styles itself as a
15 not-for-profit religious corporation organized and existing under
16 the laws of the State of California. Defendants deny, however,
17 that plaintiff is either a "not-for-profit" or "religious
18 corporation" in any meaningful sense of those terms.

19 3. Answering Paragraph 3 of plaintiffs' complaint, defendants
20 admit that Plaintiff Church of Scientology International styles
21 itself as a California not-for-profit religious corporation.
22 Defendants deny, however, that plaintiff is either a "not-for-
23 profit" or "religious corporation" in any meaningful sense of those
24 terms.

25 4. Answering Paragraph 4 of plaintiffs' complaint, defendants
26 admit that Plaintiff Church of Scientology of California styles
27 itself as a California not-for-profit religious corporation.
28 Defendants deny that plaintiff is either a "not-for-profit" or

1 "religious corporation" in any meaningful sense of those terms.

2 5. Answering Paragraph 5 of plaintiffs' complaint, defendants
3 admit that Defendant Joseph A. Yanny is an attorney licensed to
4 practice law in the State of California and a resident of Hermosa
5 Beach, California.

6 6. Answering Paragraph 6 of Plaintiffs' complaint, defendants
7 admit that Defendant Joseph A. Yanny, a professional law
8 corporation, is and has been a professional corporation organized
9 and existing under the laws of the State of California, with its
10 principal office in Los Angeles, California.

11 7. Answering Paragraph 7 of plaintiffs' complaint, defendants
12 deny each and every allegation set forth in this paragraph, and
13 further deny that there are any legitimate fictitiously-named
14 defendants in this action, nor any party to this action against
15 whom these plaintiffs have legitimate claims.

16 8. Answering Paragraph 8 of plaintiffs' complaint, defendants
17 admit that, at various times, defendant has represented certain of
18 the plaintiffs in this action in various cases prior to December
19 1987. Except as expressly admitted above, defendants otherwise
20 deny each and every allegation set forth in paragraph 8 of
21 plaintiffs' complaint.

22 9. Answering Paragraph 9 of plaintiffs' complaint, defendants
23 admit that, at various times, Defendant Joseph A. Yanny represented
24 certain of the plaintiffs in various pieces of litigation prior to
25 December 1987. Except as expressly admitted above, defendants
26 deny each and every allegation set forth in Paragraph 9 of
27 plaintiffs' complaint.

28 //

1 10. Answering Paragraph 10 of plaintiffs' complaint,
2 defendants admit that Defendant Joseph A. Yanny provided legal
3 counsel to certain of the plaintiffs in this case between 1983 and
4 1987. Except as expressly admitted above, defendants otherwise
5 deny each and every allegation set forth in Paragraph 10 of
6 plaintiffs' complaint, and further specifically deny that
7 defendants provided legal services to plaintiffs on "essentially
8 all" of plaintiffs' legal matters during that period of time.

9 11. Answering paragraph 11 of plaintiffs' complaint,
10 defendants admit that, during the course of the attorney-client
11 relationship with plaintiffs, there were certain duties that bound
12 both parties to that relationship. Those duties and ethical
13 obligations are a matter of statutory and case law. Except as
14 expressly admitted above, defendants deny each and every allegation
15 set forth in paragraph 11 of the plaintiffs' complaint, and further
16 deny that Paragraph 11 is an accurate rendition of the duties and
17 obligations binding an attorney in the course of an attorney-client
18 relationship.

19 12. Answering Paragraph 12 of plaintiffs' complaint,
20 defendants admit that the defendants were purportedly provided with
21 certain information during the course of defendants' representation
22 of the plaintiffs in this matter. Except as expressly admitted
23 above, defendants otherwise deny each and every allegation of
24 paragraph 12, and further allege that, during the course of the
25 representation of plaintiffs, defendants were rarely, if ever,
26 provided any accurate information concerning the legal, and other
27 concerns of plaintiffs. Rather, defendants at all times were
28 provided with "shore stories" concocted by the plaintiffs to

1 insulate the defendants from the truth concerning the plaintiffs
2 and their various endeavors. This campaign of deceit and
3 disinformation was conducted by plaintiffs to avoid defendants from
4 at any time learning the truth concerning the plaintiffs' improper
5 and frequently criminal activities.

6 13. Answering Paragraph 13 of plaintiffs' complaint,
7 defendants deny each and every allegation set forth in paragraph
8 13.

9 14. Answering Paragraph 14 of plaintiffs' complaint,
10 defendants admit that the attorney-client relationship between
11 plaintiffs and Yanny was terminated no later than the first day of
12 December 1987. Except as expressly admitted above, defendants deny
13 each and every allegation set forth in Paragraph 14 of the
14 complaint.

15 15. Answering Paragraph 15 of plaintiffs' complaint,
16 defendants admit that there was in place, until February 28, 1991,
17 a preliminary injunction, the terms of which are set forth in the
18 injunction. That injunction was obtained by plaintiffs in this
19 matter in the earlier case entitled, Religious Technology Center,
20 et al. v. Joseph A. Yanny, et al., Los Angeles Superior Court Case
21 No. C690211, on the basis of misrepresentations to the court and on
22 the basis of perjured declarations knowingly submitted by these
23 plaintiffs. Defendants further admit that, on or about June 28,
24 1991, defendants appeared as counsel of record for Vicki and
25 Richard Aznaran in a federal court action. The appearance of these
26 defendants as counsel for the Aznarans in that action was made
27 necessary by the improper and contemptible stratagems undertaken by
28 plaintiffs in this matter to deprive the Aznarans of counsel in

1 that matter. In taking what action these defendants did,
2 defendants acted only to protect the Aznarans' constitutional
3 rights to pursue their causes of action against these plaintiffs,
4 who are willing to take, and have taken in the past, any steps they
5 felt necessary, no matter how illegal or unethical those steps may
6 be, to frustrate the Aznarans' rights. Except as expressly
7 admitted above, defendants deny each and every allegation set forth
8 in Paragraph 15 of plaintiffs' complaint.

9 16. Answering Paragraph 16 of plaintiffs' complaint,
10 defendants admit that, to defendants knowledge, the plaintiffs have
11 actively been engaged in litigation in the matter entitled Church
12 of Scientology of California v. Gerald Armstrong, Los Angeles
13 Superior Court Case No. C420153. Except as above expressly
14 admitted above, defendants deny each and every allegation set forth
15 in Paragraph 16 of plaintiffs' complaint.

16 17. Answering Paragraph 17 of plaintiffs' complaint,
17 defendants reallege and incorporate herein by this reference each
18 and every admission, denial and other response contained in
19 paragraphs 1 through 16, inclusive of this answer, to plaintiffs'
20 compliant.

21 18. Answering Paragraph 18 of plaintiffs' complaint,
22 defendants admit that the case filed by Vicki and Richard Aznaran
23 was filed on or about April 1, 1988. Except as expressly admitted
24 above, defendants deny each and every allegation set forth in
25 Paragraph 18 of plaintiffs' complaint.

26 19. Answering Paragraph 19 of plaintiffs' complaint,
27 defendants admit that Vicki and Richard Aznaran were originally
28 represented by Barry Van Sickie, and that Mr. Van Sickie at one

1 point was disqualified by the federal court from representation of
2 the Aznarans. This disqualification was based on most of the same
3 perjured declarations that were submitted by plaintiffs in
4 Religious Technology Center, et al. v. Joseph A. Yanny, et al., Los
5 Angeles Superior Court Case No. C690211. Live testimony by the
6 declarant relied on by the plaintiffs was found to be inherently
7 incredible and not worthy of belief by the Honorable Raymond
8 Cardenas, who tried the bench portion of the trial in Religious
9 Technology Center, et al. v. Joseph A. Yanny, et al. Except as
10 otherwise expressly admitted, defendants deny each and every
11 allegation set forth in Paragraph 19 of plaintiffs' complaint.

12 20. Answering Paragraph 20 of plaintiffs' complaint,
13 defendants admit that, on or about June 28, 1991, Defendant Joseph
14 A. Yanny informed John J. Quinn, counsel for plaintiff Church of
15 Scientology International, that he would substitute into the
16 Aznaran case for the Aznarans and reasonably requested an extension
17 of time to oppose a summary judgment motion. That reasonable
18 request was refused. Except as expressly admitted above,
19 defendants deny each and every allegation set forth in paragraph 20
20 of plaintiffs' complaint.

21 21. Answering Paragraph 21 of plaintiffs' complaint,
22 defendants admit that defendants were substituted in as counsel
23 representing the Aznarans in the federal action, having sought and
24 obtained permission of court for that substitution. Defendants
25 also admit that all requests for a reasonable continuance of time
26 to protect the rights of the Aznarans in that case against a
27 pending motion for summary judgment, which was purposely filed by
28 plaintiffs in this matter at a time when the Aznarans were not

1 represented, were refused. Except as expressly admitted above,
2 defendants otherwise deny each and every allegation set forth in
3 paragraph 21 of plaintiffs' complaint.

4 22. Answering Paragraph 22 of plaintiffs' complaint,
5 defendants admit that plaintiffs in this action predictably made a
6 motion to disqualify defendants from representing the Aznarans.
7 Except as expressly admitted above, defendants deny each and every
8 allegation set forth in Paragraph 22 of plaintiffs' complaint.

9 23. Answering Paragraph 23 of plaintiffs' complaint,
10 defendants admit that defendants acted reasonably and ethically in
11 representing Vicki and Richard Aznaran over a short period of time
12 in the federal action, beginning on June 28, 1991. Except as
13 expressly admitted above, defendants deny each and every allegation
14 set forth in Paragraph 23 of plaintiffs' complaint.

15 24. Answering Paragraph 24 of plaintiffs' complaint,
16 defendants admit that, at various times, defendants have
17 represented certain of the plaintiffs in this action in various
18 cases prior to December 1987. Except as expressly admitted above,
19 defendants otherwise deny each and every allegation set forth in
20 Paragraph 24 of plaintiffs' complaint, and further specifically
21 deny that paragraph 24 is an accurate rendition of the duties and
22 obligations binding an attorney in the course of an attorney-client
23 relationship.

24 25. Answering Paragraph 25 of plaintiffs' complaint,
25 defendants deny each and every allegation set forth in Paragraph
26 25.

27 26. Answering Paragraph 26 of plaintiffs' complaint,
28 defendants deny each and every allegation set forth in Paragraph

1 26.

2 27. Answering Paragraph 27 of plaintiffs' complaint,
3 defendants deny each and every allegation set forth in Paragraph
4 27.

5 28. Answering Paragraph 28 of plaintiffs' complaint,
6 defendants deny each and every allegation set forth in Paragraph
7 28.

8 29. Answering Paragraph 29 of plaintiffs' complaint,
9 defendants reallege and incorporate herein by this reference each
10 and every admission, denial and other response contained in
11 Paragraphs 1 through 16, inclusive of this answer to plaintiffs'
12 complaint.

13 30. Answering Paragraph 30 of plaintiffs' complaint,
14 defendants deny each and every allegation of Paragraph 30.

15 31. Answering Paragraph 31 of plaintiffs' complaint,
16 defendants deny each and every allegation of Paragraph 31.

17 32. Answering Paragraph 32 of plaintiffs' complaint,
18 defendants admit that, at various times, defendants represented
19 certain of the plaintiffs in this action in various cases prior to
20 December 1987. Except as expressly admitted above, defendants
21 otherwise deny each and every allegation set forth in Paragraph 32.
22 Defendants specifically deny that Paragraph 32 is an accurate
23 rendition of the duties and obligations binding an attorney in the
24 course of an attorney-client relationship.

25 33. Answering paragraph 33 of plaintiffs' complaint,
26 defendants deny each and every allegation set forth in Paragraph
27 33.

28 ///

1 34. Answering paragraph 34 of plaintiffs' complaint,
2 defendants deny each and every allegation set forth in paragraph
3 34.

4 35. Answering Paragraph 35 of plaintiffs' complaint,
5 defendants deny each and every allegation set forth in paragraph
6 35.

7 36. Answering Paragraph 36 of plaintiffs' complaint,
8 defendants deny each and every allegation set forth in Paragraph
9 36.

10
11 FIRST AFFIRMATIVE DEFENSE

12 (Failure to State A Cause of Action)

13 37. Further answering said complaint and as a first, separate
14 and affirmative defense thereto, these defendants allege as
15 follows:

16 The complaint and each cause of action contained therein
17 fails to state a cause of action against these defendants upon
18 which relief can be granted.

19
20 SECOND AFFIRMATIVE DEFENSE

21 (This Court Cannot Enjoin The Practice of Law)

22 38. Further answering said complaint and as a second,
23 separate and affirmative defense thereto, these defendants allege
24 as follows:

25 Any attempt by plaintiffs, or any of them, to limit the
26 clientele to which these answering defendants, or any of them, may
27 render legal services after the termination of the attorney-client
28 relationship between the plaintiffs, or any of them, and these

1 answering defendants, or any of them, which limitation goes beyond
2 that required by the rules of professional conduct, is void and
3 unenforceable as a matter of public policy, and constitutes an
4 unenforceable restraint on the right of defendants, or any of them,
5 to pursue their chosen profession.

6
7 THIRD AFFIRMATIVE DEFENSE

8 (Mootness)

9 39. Further answering said complaint and as a third,
10 separate and affirmative defense thereto, these defendants allege
11 as follows:

12 All wrongs alleged by plaintiffs have already been
13 completed, no further or additional alleged actual or potential
14 damages are threatened or even possible, and therefore plaintiffs'
15 claim for injunctive relief is moot and must fail.

16
17 FOURTH AFFIRMATIVE DEFENSE

18 (No Substantial Relationship)

19 40. Further answering said complaint and as a fourth,
20 separate and affirmative defense thereto, these defendants allege
21 as follows:

22 (a) There is no substantial relationship between the
23 matters alleged in the first cause of action of Plaintiffs'
24 complaint and the former representation, and these answering
25 defendants were never in a position where they did or could have
26 received information that the plaintiffs might reasonably have
27 assumed that these answering defendants would or should withhold
28 from either Vicki Aznaran, the former president of plaintiff

1 Religious Technology Center, or Richard Aznaran, a former employee
2 of Church of Scientology International.

3 (b) There is no substantial relationship between the
4 matters alleged in the second cause of action, or any relationship
5 between Defendants and Gerald Armstrong, and the former
6 representation, and these answering defendants were never in a
7 position where they did or could have received information that the
8 plaintiffs might reasonably have assumed that these answering
9 defendants would or should withhold from Gerald Armstrong, a former
10 "intelligence officer" of Scientology's Sea Organization, then the
11 group of the most "elite" of Scientologists who worked directly for
12 L. Ron Hubbard, and who was privy to more than 500,000 pages of
13 documentation about the life of L. Ron Hubbard and the most
14 confidential operations of the Scientology organization.

15
16 FIFTH AFFIRMATIVE DEFENSE

17 (No Disclosure of Confidences)

18 41. Further answering said complaint and as a fifth,
19 separate and affirmative defense thereto, these answering
20 defendants allege as follows:

21 These answering defendants were never in the possession
22 of confidential information which was not already and/or
23 independently known to any or all of Vicki Aznaran, Richard
24 Aznaran, or Gerald Armstrong.

25
26 SIXTH AFFIRMATIVE DEFENSE

27 (Failure to Exhaust Other Remedies)

28 42. Further answering said complaint and as a sixth,

1 separate and affirmative defense thereto, these defendants allege
2 as follows:

3 Each and all purported causes of action set forth in the
4 complaint, and any and all claims based thereon, are barred by
5 reason of plaintiffs' failure to exhaust their other available
6 remedies.

7
8 SEVENTH AFFIRMATIVE DEFENSE

9 (Unclean Hands)

10 43. Further answering said complaint and as a seventh,
11 separate and affirmative defense thereto, these answering
12 defendants repeat, reallege and incorporate herein by reference
13 each and every allegation contained in paragraphs 44, 45, 46, 51,
14 54, 57, and 58 herein and allege as follows:

15 Plaintiffs are barred from bringing this action against
16 these defendants and/or obtaining the equitable relief requested
17 herein under the doctrine of unclean hands.

18
19 EIGHTH AFFIRMATIVE DEFENSE

20 (In Pari Delicto)

21 44. Further answering said complaint and as an eighth,
22 separate and affirmative defense thereto, these answering
23 defendants repeat, reallege and incorporate by reference herein
24 each and every allegation contained in paragraphs 43, 45, 46, 51,
25 54, 57 and 58 herein and allege as follows:

26 Notwithstanding the things alleged of defendants in the
27 complaint, which are denied in the applicable paragraphs herein,
28 plaintiffs and their counsels' conduct in connection with the

1 events allegedly giving rise to the first cause of action bars
2 plaintiffs from recovery with regard to the first cause of action
3 under the doctrine of in pari delicto.

4
5 NINTH AFFIRMATIVE DEFENSE

6 (Illegality)

7 45. Further answering said complaint and as a ninth,
8 separate and affirmative defense thereto, these answering
9 defendants repeat, reallege and incorporate herein by reference
10 each and every allegation contained in paragraphs 43, 44, 46, 51,
11 54, 57 and 58 herein and allege on the basis of either personal
12 knowledge or information and belief as follows:

13 Plaintiffs are barred from bringing this action as a
14 result of their acts of illegality in connection with matters that
15 were being handled by defendants for plaintiffs, but not disclosed
16 by plaintiffs to defendants at the time of such handling, services
17 which plaintiffs requested defendants to perform (e.g., with regard
18 to the Flynn settlement agreements), but which they refused to so
19 do because of their illegality, plaintiffs' illegal conduct in
20 committing the acts giving rise to the action entitled Vicki
21 Aznaran, et al. v. Church of Scientology of California, and
22 assigned Case Number C-88-1786 JMI (Ex) by the United States
23 District Court for the Central District of California ("The Aznaran
24 case"); conduct by plaintiffs and their counsel and others,
25 including but not limited to the making of certain settlement
26 proposals to Barry Van Sickle, Esq., for direct communication to
27 Vicki and Richard Aznaran ("the Aznarans") knowing that Barry Van
28 Sickle, Esq. had been disqualified from representing the Aznarans,

1 and knowing that the Aznarans were at the time represented by Ford
2 Greene and participating in conduct which resulted in the Aznarans
3 (in the hopes of facilitating settlement and in accordance with
4 plaintiffs' conditions) dismissing their counsel, Ford Greene.
5 Furthermore, plaintiffs have entered into numerous settlement
6 agreements with many attorneys (e.g. the Flynn settlement
7 agreements), and many of those settlement agreements have included
8 illegal provisions restricting those attorneys from ever
9 representing any clients with interests adverse to the plaintiffs
10 herein, with the effect that the number of attorneys available to
11 represent the Aznarans, and others wishing to litigate against the
12 plaintiffs, have been significantly depleted. Furthermore, other
13 acts of illegality by plaintiffs have been publicly documented.
14 Moreover, plaintiffs have engaged in acts of impropriety including
15 what the District Court in the Aznaran case has referred to in a
16 written order, entered after the events in issue herein, as
17 "outrageous litigation tactics . . . by both sides." Also, the
18 conduct of plaintiffs against various opposing counsel, judges and
19 government authorities (including but not limited to illegal
20 surveillance, obtaining phone company records, breaking and
21 entering, property damage, threatening conduct, killing pets and
22 violence) have discouraged and intimidated attorneys from appearing
23 in litigation against the plaintiffs, thus further significantly
24 depleting the pool of attorneys immediately available to represent
25 the Aznarans, and others, against the plaintiffs.

26 //

27 //

28 //

TENTH AFFIRMATIVE DEFENSE

(Fraud and Deceit)

46. Further answering said complaint and as a tenth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 43, 44, 51, 54, 57 and 58 herein and allege, on the basis of either personal knowledge or information and belief, as follows:

Plaintiffs are barred from bringing this action against these defendants because of their fraud and deceit in the Aznaran case prior to July 1, 1991. Plaintiffs, through their counsel, John J. Quinn ("Quinn") and William T. Drescher ("Drescher"), caused material misrepresentations to be made to the Aznarans with knowledge of the falsity of the misrepresentations at the time they were made and with the intent to deceive the Aznarans, who actually and justifiably relied on those material misrepresentations to their injury, by substituting themselves into the Aznaran case as attorneys pro per in the place of their counsel, Ford Greene, whereupon plaintiffs filed a motion for summary judgment against the Aznarans.

Specifically, Quinn, Drescher, and another attorney, Barry Van Sickle, in or about June 5, 1991, met in a restaurant when they discussed the possible settlement of both the Aznaran case and the case of Corydon v. Church of Scientology, et al. and discussed certain settlement proposals with regard thereto. Obviously, knowing that Van Sickle had been disqualified at their instance from representing the Aznarans in the Aznaran case because of his relationship with defendants herein, and well knowing that

1 the Aznarans were represented by their Attorney of record, Ford
2 Greene, Quinn and Drescher made settlement proposals to Van Sickle
3 regarding possible settlement of the Aznaran case. Quinn and
4 Drescher, on behalf of plaintiffs, specifically discussed details
5 regarding Van Sickle making direct settlement proposals to the
6 Aznarans without the knowledge of their counsel of record, Ford
7 Greene, and with the expectation that the Aznarans might thus be
8 induced to then discharge their attorney, Greene. Furthermore,
9 Drescher, in the presence of Quinn, expressly made it a condition
10 of this meeting(s) and communications that these discussions would
11 never be repeated and would not become the subject of declarations
12 in either the Corydon case or the Aznaran case. By inducing Van
13 Sickle to make settlement proposals to the Aznarans, plaintiffs
14 thus made Van Sickle their agent.

15 On June 20, 1991, or thereabouts, Quinn, Drescher and Van
16 Sickle again met in a restaurant and again discussed joint
17 settlement of the Corydon and Aznaran cases. At this meeting,
18 Quinn and Drescher learned that the Aznarans were now discharging
19 Ford Greene. Neither Quinn nor Drescher disclosed to Van Sickle
20 during either of these restaurant meetings, or at any other
21 relevant time, that plaintiffs were then finalizing a substantial
22 motion for summary judgment in the Aznaran case.

23 Within a very short time thereafter, on July 1, 1991, the
24 Aznarans substituted themselves into the Aznaran case in pro per in
25 place of Greene who they had discharged, and whereupon plaintiffs
26 filed a motion for summary judgment against the Aznarans.

27 Believing that they had taken a major step towards
28 concluding a settlement agreement with plaintiffs, and instead

1 suddenly facing a motion for summary judgment and without essential
2 legal representations, the Aznarans contacted defendants for
3 assistance. Defendants contacted Quinn and requested plaintiffs
4 continue the hearing date on the summary judgment motion so that
5 the Aznarans could obtain new legal counsel and oppose the
6 plaintiffs' motion for summary judgment. Quinn refused to continue
7 the hearing date on plaintiffs' motion for summary judgment.
8 Subsequently, the District Court reinstated Ford Greene as the
9 Aznaran's counsel and shortly thereafter entered a written order
10 referring to the "outrageous litigation tactics" being employed in
11 the case.

12
13 ELEVENTH AFFIRMATIVE DEFENSE

14 (Res Judicata)

15 47. Further answering said complaint and as an eleventh,
16 separate and affirmative defense thereto, these answering
17 defendants allege as follows:

18 Plaintiffs' complaint, and plaintiffs' claims for
19 equitable relief and damages, are barred by the doctrine of res
20 judicata.

21
22 TWELFTH AFFIRMATIVE DEFENSE

23 (Collateral Estoppel)

24 48. Further answering said complaint and as a twelfth,
25 separate and affirmative defense thereto, these answering
26 defendants allege as follows:

27 Plaintiffs' complaint, and plaintiffs' claims for
28 equitable relief and damages therein, are barred by the doctrine of

1 collateral estoppel.

2
3 THIRTEENTH AFFIRMATIVE DEFENSE

4 (Failure to Mitigate Damages)

5 49. Further answering said complaint and as a
6 thirteenth, separate and affirmative defense thereto, these
7 answering defendants allege as follows:

8 Plaintiffs, and/or their counsel or other agents, failed
9 to take proper and reasonable steps to avoid or mitigate the
10 damages alleged in the Complaint, and to the extent of such failure
11 to mitigate or to avoid, damages allegedly incurred by plaintiffs,
12 if any, should be reduced accordingly.

13
14 FOURTEENTH AFFIRMATIVE DEFENSE

15 (Waiver -- of the Attorney/Client Privilege and Estoppel)

16 50. Further answering said complaint and as a
17 fourteenth, separate and affirmative defense thereto, these
18 answering defendants allege as follows:

19 Plaintiffs, inter alia, in filing and prosecuting their
20 complaint in Religious Technology Center, et al. v. Joseph A.
21 Yanny, et al., Los Angeles Superior Court Case No. C690211 ("Yanny
22 I") have knowingly waived any privilege regarding confidentiality
23 of attorney client communications pursuant to California Evidence
24 Code Section 958 and other applicable law and have thereby released
25 these defendants from any alleged duty to maintain confidences as
26 asserted in this action and are therefore estopped from recovery
27 herein.

FIFTEENTH AFFIRMATIVE DEFENSE

(Waiver and Estoppel -- Crime/Fraud Exception)

51. Further answering said complaint and as a fifteenth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 45 and 46 of this verified first amended complaint and allege as follows:

Plaintiffs are barred from asserting each and all of the purported causes of action in the complaint by reasons of their own acts, omissions and conduct, or that of their agents, pursuant to California Evidence Code §956, in that professional services of defendants were sought or obtained to enable plaintiffs to commit, or plan to commit, a crime or fraud.

SIXTEENTH AFFIRMATIVE DEFENSE

(Waiver and Estoppel -- Multiple Representation)

52. Further answering said complaint and as a sixteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiffs are barred from asserting their first cause of action in their complaint by reason of the joint client exception to the attorney client privilege in that defendants previously represented Vicki Aznaran, jointly with plaintiffs, in a matter(s) of common interest.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Estoppel By Conduct)

53. Further answering said complaint and as a

seventeenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiffs are equitably estopped from asserting each and all of the purported causes of action in the complaint by reason of their own acts, omissions and conduct, or that of their agents.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Action Barred By Equity and Civil Code Provisions)

54. Further answering said complaint and as an eighteenth, separate and affirmative defense thereto, these answering defendants repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 43, 44, 45, 46 herein and allege as follows:

Plaintiffs are barred from judicial relief by the general principles of equity and the specific provisions of Part IV of the Civil Code, including but not limited to §§3512, 3517, 3519, 3524 (without any admission of wrongdoing by defendants) and 3533.

NINETEENTH AFFIRMATIVE DEFENSE

(Action Barred By Doctrine of Election of Remedies)

55. Further answering said complaint and as a nineteenth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiffs are barred from bringing this action against these defendants under the doctrine of election of remedies.

/ / /

/ / /

/ / /

1 TWENTIETH AFFIRMATIVE DEFENSE

2 (Privilege)

3 56. Further answering said complaint and as a twentieth,
4 separate and affirmative defense thereto, these answering
5 defendants allege as follows:

6 At all relevant times, the acts of these answering
7 defendants were privileged under Civil Code §47. Therefore,
8 plaintiffs are barred from maintaining this action.

9
10 TWENTY-FIRST AFFIRMATIVE DEFENSE

11 (Justification -- Defense of Another, Interests
12 Of Third Persons and the Public)

13 57. Further answering said complaint and as a twenty-
14 first, separate and affirmative defense thereto, these answering
15 defendants repeat, reallege and incorporate herein by reference
16 each and every allegation contained in paragraphs 43, 44, 45, 46
17 herein and allege as follows:

18 At all relevant times, the acts of these answering
19 defendants were privileged and justified because, if done at all,
20 they were done in defense of others, the interests of third
21 persons, the interests of justice, and the interests of the public.

22
23 TWENTY-SECOND AFFIRMATIVE DEFENSE

24 (Justification -- Drastic Result Exception
25 To the Substantial Relationship Test)

26 58. Further answering said complaint and as a twenty-
27 second, separate and affirmative defense thereto, these answering
28 defendants repeat, reallege and incorporate by reference each and

every allegation contained in paragraph 46 herein and allege as follows:

At all relevant times, the acts of these answering defendants were justified because the circumstances under which these defendants felt compelled to temporarily represent the Aznarans were created by the plaintiffs' own intentional bad faith conduct, and but for these defendants' assistance, a drastic result would likely have occurred.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Good Faith and Due Diligence)

59. Further answering said complaint and as a twenty-third, separate and affirmative defense thereto, these answering defendants allege as follows:

Defendants have acted at all times relative hereto in good faith and with due diligence.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(First Amendment Protection and Commerce Clause)

60. Further answering said complaint and as a twenty-fourth, separate and affirmative defense thereto, these answering defendants allege as follows:

Plaintiffs' complaint, and plaintiffs' claims for equitable relief and damages therein, are an unconstitutional attempt to limit and chill defendants' first amendment rights of freedom of speech, assembly and religion and, if granted, would violate, inter alia, the Commerce Clause of the Constitution of the United States and of applicable provisions of the Constitution of

1 the State of California.

2
3 WHEREFORE, these answering defendants, and each of them,
4 pray as follows:
5

6 1. That plaintiffs, or any of them, take nothing by
7 their complaint;
8

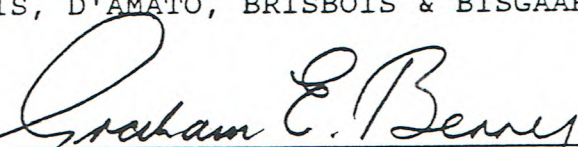
9 2. That any temporary restraining order, preliminary
10 injunction or other order entered against defendants, or any of
11 them, in this action be dissolved and rendered of no further force
12 and effect;
13

14 3. For defendants' cost of suit incurred herein; and

15 4. For such other and further relief as may be just and
16 proper under the circumstances.
17

18
19 Dated: January 22, 1992

LEWIS, D'AMATO, BRISBOIS & BISGAARD

20
21
22 By: 

GRAHAM E. BERRY

23 Attorneys for Defendants JOSEPH A.
24 YANNY, an individual, and JOSEPH A.
25 YANNY, a professional law corporation
26
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28 1STAMDANS.VC
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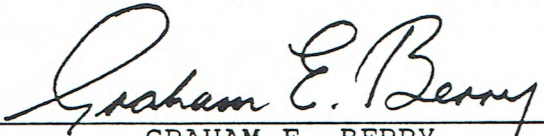
DEMAND FOR JURY TRIAL

Defendants in this action, in which plaintiffs are seeking compensatory, punitive and exemplary damages, request jury trial as to all appropriate issues.

Dated: January 22, 1992

LEWIS, D'AMATO, BRISBOIS & BISGAARD

By



GRAHAM E. BERRY

Attorneys for Defendants JOSEPH A. YANNY, an individual, and JOSEPH A. YANNY, a professional law corporation

answer2.vc

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing (REVISED PROPOSED) DEFENDANTS' VERIFIED FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED COMPLAINT; DEMAND FOR and know its contents.

JURY TRIAL

☐ CHECK APPLICABLE PARAGRAPH

☒ I am party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☒ I am ☒ an officer ☐ a partner ☐ a of JOSEPH A. YANNY, A PROFESSIONAL CORPORATION

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☒ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on January 22, 1992, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

JOSEPH A. YANNY

Type or Print Name

Signature

PROOF OF SERVICE

1013A (3) CCP Revised 5/1/85

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of _____, State of California.

I am over the age of 18 and not a party to the within action; my business address is: _____

On _____, 19____, I served the foregoing document described as _____

_____ on _____ in this action.

- ☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
☐ by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

☐ BY MAIL

☐ *I deposited such envelope in the mail at _____, California.

The envelope was mailed with postage thereon fully prepaid.

☐ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at _____, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, 19____, at _____, California.

☐ **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____, 19____, at _____, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

PROOF OF PERSONAL SERVICE

(Non-attorney--California state courts only)

I am over age 18 and not a party to this cause. On January 23, 1992, I personally served a true and correct copy of [REVISED PROPOSED] DEFENDANTS' VERIFIED FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED COMPLAINT; DEMAND FOR JURY TRIAL on each of the following:

John J. Quinn, Esq.
QUINN, KULLY & MORROW
520 South Grand Avenue
Eighth Floor
Los Angeles, California 90071

Service was accomplished in the manner checked below:

_____ I personally delivered it to the attorney(s) or party named above.

_____ During the absence of the attorney from the office, I left it with the attorney's clerk or with a person having charge of the office.

_____ When there was no person in the attorney's office, I left it in a conspicuous place in the office between 9:00 a.m. and 5:00 p.m.

_____ When the office of the attorney was closed, I left it at the attorney's residence (which is in the same county as his or her office) with a person at least 18 years old.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 23, 1992.

(Print name of server)

PROOF OF PERSONAL SERVICE

(Non-attorney--California state courts only)

I am over age 18 and not a party to this cause. On January 23, 1992, I personally served a true and correct copy of [REVISIED PROPOSED] DEFENDANTS' VERIFIED FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED COMPLAINT; DEMAND FOR JURY TRIAL on each of the following:

William T. Drescher, Esq.
23679 Calabasas Road
Suite 338
Calabasas, California 91302

Service was accomplished in the manner checked below:

_____ I personally delivered it to the attorney(s) or party named above.

_____ During the absence of the attorney from the office, I left it with the attorney's clerk or with a person having charge of the office.

_____ When there was no person in the attorney's office, I left it in a conspicuous place in the office between 9:00 a.m. and 5:00 p.m.

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(Print name of server)

PROOF OF PERSONAL SERVICE

(Non-attorney--California state courts only)

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Laurie Bartilson, Esq.
Helena K. Kobrin, Esq.
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

Service was accomplished in the manner checked below:

_____ I personally delivered it to the attorney(s) or party named above.

_____ During the absence of the attorney from the office, I left it with the attorney's clerk or with a person having charge of the office.

_____ When there was no person in the attorney's office, I left it in a conspicuous place in the office between 9:00 a.m. and 5:00 p.m.

_____ When the office of the attorney was closed, I left it at the attorney's residence (which is in the same county as his or her office) with a person at least 18 years old.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 23, 1992.

(Print name of server)

PROOF OF SERVICE BY MAIL

[CCP § 1013(a)]

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Lewis, D'Amato, Brisbois & Bisgaard, 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On January 23, 1992, I served the foregoing document described as:

[REVISED PROPOSED] DEFENDANTS' VERIFIED FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED COMPLAINT; DEMAND FOR JURY TRIAL

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at: Los Angeles, California 90012 addressed as follows:

Joseph A. Yanny, Esq.
1925 Century Park East
Suite 1260
Los Angeles, California 90067

I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing. Under that practice, mail is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the day of deposit for mailing an affidavit.

Executed on January 23, 1992 at Los Angeles, California.

[X] State I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[] Federal I declare that I am employed in the offices of a member of the bar of this court at whose direction service was made.

Karen D. Cornejo
Karen D. Cornejo

Rev. 10/89

PROOF OF SERVICE BY MAIL

[CCP § 1013(a)]

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Lewis, D'Amato, Brisbois & Bisgaard, 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

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[REVISED PROPOSED] DEFENDANTS' VERIFIED FIRST AMENDED ANSWER TO PLAINTIFFS' VERIFIED COMPLAINT; DEMAND FOR JURY TRIAL

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at: Los Angeles, California 90012 addressed as follows:

Patrick K. Smith, Esq.
1408 Talbott Tower
131 N. Ludlow Street
Dayton, Ohio 45402-1773

I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing. Under that practice, mail is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the day of deposit for mailing an affidavit.

Executed on January 23, 1992 at Los Angeles, California.

[X] State I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[] Federal I declare that I am employed in the offices of a member of the bar of this court at whose direction service was made.


Karen D. Cornejo

Rev. 10/89

DD/G US

EYE'S ONLY

TOPSECRET

Duke,

Here is plan desired.

Love

Bye.

PROJECT QUAKER

(Refer to the persons concerned as "the friends")

INFORMATION

It may be deemed necessary for all the DC staff who could be pulled in for questioning to suddenly leave. This must be done in such a way so that they never can be accused of "fleeing prosecution".

MAJOR TARGET

 To ensure that all those DC staff concerned are not available for questioning by Scales yet cannot be prosecuted for fleeing.

PRIMARY TARGETS

1. US B1 SEUS SEC is responsible for seeing that this project gets speedily done. He is to work closely with DC INFO US and DC US on this project.
2. The purpose of this project is to protect the Church from Scales actions.
3. D/NAT'L SEC is responsible for the overall planning of those actions and their debugging as necessary.

VITAL TARGETS

1. To ensure that extremely tight security is maintained on this project.
2. To ensure that it gets done speedily.
3. To ensure that each action is smoothly worked out so that if evacuation is necessary it will be done without a "hitch" or mistake.
4. To get the finances quickly for this project.
5. To get approval up lines on this project "super fast" so that it can be gotten done and ready fast.

OPERATING TARGETS

1. Each person to whom this project pertains must immediately get his/her passport. This must be done within security's framework, meaning the person doesn't mention C of S on the passport. For occupation list Researcher - Public Relations Consultant - etc. or housewife for girls that are married. Production target 2 weeks on this. As assigned.
2. US B1 SEUS SEC is to mock up an ED or some such official type proclamation entitled "Sabbatical Leaves." This can be worked out with both D/INT'L SEC US B1 and DDC US. The above shall basically state that about 10 CO personnel shall be chosen for Sabbatical Leaves. This shall start with the Founding Church in Washington DC. This is being done as an award for upstate who consistently produce well, and as an experiment to see what an energetic staff member will do on his own if given 3 to 6 months to travel and study and use Sec tech. The Rules are

the persons are to:

- 1) To observe coventry and to not communicate to a fellow Sengist during this time.
- 2) They are to spend at least some of this time in "retreat" where they are to study their choice of topics.
- 3) They may travel anywhere in the world to do this.
- 4) They are to produce at the end of this time a product of use to Sen.
- 5) They may prepare ahead of time but must start from scratch.

This project is to be called "Ten Talents" after the biblical tale. A quote of this should be gotten from the bible and put into the ED. US B1 SEUS SEC.

3. When the above ED is completed, it should be sent to all GO DC staff or wherever needed. It should appear real to those to whom it doesn't affect. US B1 SEUS SEC.

4. US B1 SEUS SEC is to work out the comm the pertinent persons are to give on this to their relatives or fellow staff. This should be done ahead of time A.S.A.P. so that when and if persons do have "to go" it will not cause any flaps or PTS situations. "All" should be ready to leave at any time. US B1 SEC.

5. US B1 SEC is to ensure that all concerned are ready to leave any time and that all personel cycles - finances, 2D, bills, are completely up to PT and there are no PTPs or stops to immediate departure.
US B1 SEUS SEC.

6. US B1 SEUS SEC is to see AG DC keeps all staff actions written up to PT and that machinery exists, to as best as possible, take over, for each person (including the AG) if this action were needed to be done. This should be worked out in liaison with DDC US and

DG US. US B1 SEUS SEC.

7. US B1 SEUS SEC is to immediately do up a confidential CS-W for "set-aside" finances for this project. This is for seven or eight people so the amount should be about \$10,000 for starters. Any help needed on this can come from DDG US or DG US. These finances should be given to AG DC to hold in case this action is implemented. US SEUS SEC B1.

8. SEUS SEC US B1 is to ensure that the "need to know" is strictly followed on this project. No communicators are to know. The Need to Know is limited to DG US; DDG US; DG I US; DDG I US; US B1 NAT'L SEC; US; D/NAT'L SEC US; any US DG's that must know are told by DG US; and those DG staff that this concerns. SEUS SEC US B1.

9. SEUS SEC US B1 is to set up an "early warning" system whereby he or DG US can be notified immediately with any info needed to decide to put "Failsafe" into action. SEUS SEC US B1.

10. A "safehouse" or "safehouse area" should be chosen in an out of the way place, like a ski resort - Dude Ranch - farm - Canada - Mexico - etc. . This "place" should be investigated to ensure it can be used anytime of the year by people "just showing up". This "safe house" is for the Sabbaticals to go til it is shown one way or another that they must stay away or come back. SEUS SEC US B1.

11. A cover as to why "they" all went there, without the Church knowing it, must be worked out - as this breaks the Sabbatical rules. SEUS SEC US B1.

12. Seven safe different places (or as many as needed) must be worked out, where the Sabbaticals will go if they must extend their leave. One for each person. SEUS SEC US B1

13. Secure comm lines, codes, etc., must be worked out for this "safe house" are in #10; and each different place in #12 above. This must be done before any Sabbaticals are taken. SEUS SEC US B1.

14. The entire DC Org should be alerted in some way to this Sabbatical "cover story". And if needed to be implimented the DC Org should be informed of this "award for" those concerned. (The one, two - 10 Talent analogy should be used). This is to take all of the mystery off the line and make it no surprise as well as handling any testimony in court by any staff. SEUS SEC US B1.

15. When all of the above actions are worked out to the DC I/DC US's satisfaction, a check list, code words, etc., are to be worked out so that if deemed necessary the Sabbaticals will go off like clockwork. SEUS SEC US B1.

16. Upon completion of targets 1 - 15, D/NAT'L SEC is to fly to DC on mission. His MOs will be the briefing and any necessary drilling to be done to prepare the "persons" for their "Sabbaticals" if necessary to impliment. MOs to be written by SEUS SEC US B1 and approved by DG I US and DC US. SEUS SEC US B1.

H-37
P/S
2/10/77

Any executive failing to assign or enforce Conditions penalties how normal is himself assigned the condition he or she should have assigned until that post's stats are up (not necessarily that person's as transfer may be needed).

Any staff member failing to apply the formula or the penalties of a Condition assigned unless relieved by the E/O or the assigning authority or review of actual stats shall be downgraded one Condition level.

If he or she still fails to follow the downgraded formula and penalty within 24 hours of receipt of the downgrade, it is downgraded one more and so on.

Sagged stats or crimes or high crimes are inexcusable. Seniors must always seek to raise stats and prevent crimes and high crimes by Condition Assignments the moment they are aware of the sag or the crime or high crime.

Staff members who see in their own sagged stats a Condition coming up should act fast to get the stat up before a Condition has to be assigned.

L. RON HUBBARD
Founder

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by L. Ron Hubbard
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HUBBARD COMMUNICATIONS OFFICE
Saint Hill Manor, East Grinstead, Sussex

Remimeo

HCO POLICY LETTER OF 18 OCTOBER 1967
Issue IV

PENALTIES FOR LOWER CONDITIONS
(Applies both Orgs and Sea Org)

- LIABILITY — Suspension of Pay and a dirty grey rag on left arm and day and night confinement to org premises.
- TREASON — Suspension of pay and deprivation of all uniforms and insignia, a black mark on left cheek and confinement on org premises or dismissal from post and debarment from premises.
- DOUBT — Debarment from premises. Not to be employed. Payment of fine amounting to any sum may have cost org. Not to be trained or processed. Not to be communicated or argued with.
- ENEMY — SP Order. Fair game. May be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed.

L. RON HUBBARD
Founder

LRH:jp
Copyright © 1967
by L. Ron Hubbard
ALL RIGHTS RESERVED

GC 183
To all
A/Gs
D/S J.L.G.
PROs
Bur 4s

7 October 1971

RE: BOOKS & ENTITIES WRITTEN ABOUT SCIENTOLOGY
BY SP4

In the UK, the following legal actions have been taken on entities books which have been written about Scientology.

1. Saturn Slaves - this was a book all about Charles Manson and hippie cults in California. In several places, throughout the book, Charles Manson was mentioned as a former Scientologist (untrue) and it was alleged that he got his start with Scientology etc.

The publishers of the book were sued for libel -- they did not serve a defence but instead asked for settlement. It was agreed that they would pay us £100 damages, together with the costs of the action. They also agreed to make an apology in open court and to discontinue publication and sales of the book.

2. A psychologist by the name of Dr. Christopher Evans was writing a book entitled "20th Century Cults". Legal started writing to him and his publishers and later his lawyers. No proceedings were started because the book had not been published. However, endless letters were sent in and from over a period of about a year, during which time it was made clear to the publishers and their lawyers that if they published the book, they would have to fight a legal action, which would lose them money.

Finally the publishers lawyers wrote to us to say that there was no point in continuing the correspondence because the publishers had now decided not to publish the book. As of this date the book has not been published.

3. C. H. Rolph, (small time author and journalist), was commissioned by the NAMH U.K. to write a book on the subject of the NAMH conflict with Scientology. From their viewpoint. PRG got in touch with Rolph - Rolph came down to SH and there were a series of friendly letters. Rolph finally submitted his manuscript to PRG but, in spite of the friendly visits, it turned out that he was just a NAMH lack and had written an attack.

Legal wrote to him and his lawyers, and pointed out that publication would be a contempt of court (because of other legal actions which we have against the NAMH). The book has not been published.

4. "Scientology, what it is - what it does" by Rev. Morris Burrell was the first book published in the UK, solely on the subject of Scientology. Burrell had been in comm with PRG and a long series of letters had passed between them. But once again, the book when published turned out to be hostile. The front cover of the book contained the Scientology double triangle and our first thought was to begin legal proceedings for infringement of trademark. However, on reading the book, it was discovered that Burrell had mentioned a number of libel actions in which C of S was engaged and had commented upon them.

Thus, being a contempt of court, legal moved to court for an order "that Morris C. Burrell do stand committed to Her Majesty's Prison at Brixton and that the publishers may be so committed for their several and respective contempts".

So, legal took them to Court, and the Judge found that the book was a contempt of court. So the book was drawn from publication without any copies having been sent to the public.

The latest book is by Cyril Vosper called "The Mindbenders", a stupid bit of matter. A preview of the book was sent out by the publishers, and PRO was alerted by a phone call from a TV station, who wanted a confrontation on TV with Cyril Vosper. This gave the G.O. 24 hours to stop the book, the TV confrontation and attendant bad publicity.

The book contained numerous quotes from Scientology books and policy letters etc and contained some data which Vosper had learned on the Solo Course. Legal proceedings were brought on the basis of breach of copyright and breach of confidential relationship (meaning putting in details of the Solo Course). As time was short, 34 did a superb job of getting data, PRO did a superb job of stalling TV, and legal went round to the Judge in the evening at his own home, to ask for an injunction. (An injunction is a Court order stopping a person from doing a particular act). In this case the injunction was to prevent the book from being sold or distributed. PRO went down to the TV station, to be ready to appear, in case the injunction was not obtained. The programme announcer had already made his introductions on Cyril and his book, when the phone rang in the studio, and our lawyer informed the producer that the injunction had been obtained. The announcer was forced to apologize to the viewers, and PRO handled the resultant tension after the programme had not gone on, with a drunken Vosper and furious producer.

The injunction was Ex parte (the other side was not present when it was obtained) and 3 weeks later legal went before the Court again for a contested hearing, to see whether the injunction should be continued or not. Legal won on both counts of copyright and breach of confidence. The other side now have 14 days in which to appeal.

The point of relating these actions is to indicate that the following countries have similar laws to Britain:

New Zealand

Australia

South Africa

Canada

There is no acceptable justification in these countries for no action being taken against the publishers and authors of unethical books. The G.O. has to act fast, effectively and with imagination. The skill required is in

- 1) Having the brains to see a possible course of action, no matter how unlikely.
- 2) Having the necessary organisation to start that action immediately and bring it to a point of confrontation and decision. (The longer the delay, the greater the chance of failure).

- 3) Legal U.S. seldom, if ever, assesses its chances of winning before commencing action. Its strategy lies in getting the action into court fast, without regard to the chances of winning. No-one can accurately assess in advance the chances of winning or losing, as this is a matter of individual lawyers, individual judges, how many are breaks the judge had that day, the particular circumstance of the particular case which strikes the Judge and good fortune. Good fortune never strikes you in Court, unless you are in Court.
- 4) Legal U.S. has been in courts more often in the past 3 years than the rest of the Scientology world combined. They have won more cases and lost more cases than anywhere else. They lost cases they were sure they would win, and won cases they were sure they would lose. The losses did not hurt us, and the successes established an iron clad ethics presence, which has probably prevented more entheta than we will ever know about (24 feedback lines confirm this).
- 5) Do not worry about whether you will win or lose, but direct all effort and concentration on the legal technicalities required to achieve a legal confrontation.
- 6) It is always technically possible - though sometimes difficult, to get into Court. The most difficult part is in forcing your legal team, especially outside lawyers, to get this done, in spite of their terror of losing. It requires intention, determination and forceful persistence to get this done. Not legal genius.

Re USA

In America, where Freedom of Speech includes freedom to malign with impunity, except for old ladies and crippled men, much more imagination is required. Because of the Constitution of America, and case law on libel, inclusive of recent Supreme Court decisions, it is impossible to prevent publication of libel. Attempts to prevent a book being published are called pre-publication censorship, and are extremely unpopular legally. However, where U.S. legal has been successful is prior to Court appearances and actual trial in effecting settlement.

The button used in effecting settlement is purely financial. In other words, it is more costly to continue the legal action than to settle in some fashion. Using this, legal U.S. usually moves for retraction of the libel and/or publication of a correction or Scientology viewpoint.

Therefore, it is imperative that legal US Dev-T his opponents and their lawyers with correspondence (a lawyer's letter costs approx \$50), phone calls (time costs), interrogatories, depositions and whatever else legal can mock up.

One of the bright spots of US legal is that even if you lose you don't pay your opponent for his lawyers fees. Therefore the cost of any legal action is small by comparison with Commonwealth Countries, where the loser pays everything.

N.B.: Any legal action on entheta publications needs the close co-ordination of PR, Legal and B4. One should carry forward without being afraid of being labelled litigious. We want the reputation that we use the laws of

to uphold our legal and civil rights.

Legal terminals have only just been set up although the laws are different from Commonwealth and there are actions which can be taken if they are pushed and forced through.

Up to this point, the G.O. has been entirely swayed by our wog lawyers negative opinions but legal in ~~ways~~ should note the message in this Guardian order.

The message is that in combatting unethical articles and books, legal should be aggressive, fast, persistent and untiring.

Every skirmish should be treated like a major battle.

Jane Kember
Guardian World Wide

DD I US Comm
DG I US
DG US Comm
DG US
Gdn WW Comm
Guardian WW
DG I WW Comm
DG I WW
DDG I WW
US Dir Sec WW
Mr I Dir US BI

20 May 75

Re: P&E's

Yours to DG I 5 May 75
DG I's to you 14 May 75

Dear Michael,

When Dick first wrote you on this subject a few of us in the office had been comparing notes and smatterings of legal knowledge on this subject with the end result of deciding we needed to research the differences between "breaking and entry" and "unlawful entry".

Upon searching through legal dictionaries and various legal sources I discovered in Wests California Penal Codes (which except for varying technical differences by state is representative of the basic US statewide law on this subject) that the technical differences between "b & e" and "unlawful entry" become relatively meaningless when it can be seen that a large portion, if not the majority, of our high priority successful Collections actions fall into the category of second degree burglary, which is a felony.

Some of our successful collections actions in the recent past and present which fall into this category are: (past) GO 1222, GO 1300, GO 1361, GO 1344, GO 1080-Yolo, DEA; (present) GO 1361, GO 1344, DEA. (this is not an exhaustive rundown, just enough to demonstrate the importance)

From my study of the codes and from my knowledge of how the collections actions are done, one of the key points in solidifying the burglary commission is basically the theft of xerox paper and xerox machine use of whatever group is approached. Without this theft, then the distinction between "b & e" and "unlawful entry" would become important and could mean the difference between a felony and misdemeanor.

Burglary

Definition: Every person who enters any building with intent to commit grand or petit larceny or any felony is guilty of burglary. (p.1,a; p2.,a)

Defendant's entry into room to take personal property for temporary use, without intending to deprive owner thereof permanently, is not burglary. (p5,a)

Burglary may be committed by a breaking on the inside and it is burglary to enter an inner door with an intent to commit a felony even though the inner door was unlocked. (p7,a)

Evidence that employee devised plan to steal his employer's property, that such plan involved entry into employer's store by other persons for purpose of taking delivery of property, and that one of such persons was induced by employee to enter store for expressed purpose of aiding and abetting him in consummating scheme to defraud employer, was sufficient to sustain employee's conviction of burglary. (p7,b)

One who enters a room or building with intent to commit a felony is guilty of burglary even though permission to enter has been extended to him personally or as a member of the public. (p8,a)

One who enters a room or building with intent to commit larceny is guilty of burglary even though express or implied permission has been given to him personally or as a member of the public. (p8,b)

Nighttime burglaries of a building currently used as sleeping and living quarters is burglary in the first degree, and all other burglaries by unarmed persons of other buildings, whether occupied or not, are in the second degree. (p11,a)

Punishment: Burglary in the second degree: by imprisonment in the county jail not exceeding one year or in the state prison for not less than one year or more than 15 years - in trial judges discretion. (p12,a, 13,a).

#

SEE Project
GO B-1-3

n. 7512
coll

LA Camp 1/2
coll

coll

OPERATING TARGETS:

1. Review existing suitable guise program (mailing of docs to several organizations including us) to see how it would effect keeping our PS's in place and with good access if it was done prior to negotiation breakdown or reversion after settlement. Replan if necessary, target handling out and report to DG I US. 1512C
2. Get additional FSMs into LA and DC target areas as needed so that existing people can be replaced. DG I US
3. Have GO 1361 documents reviewed for Branch I attack use, and a multi-phase campaign worked out right down to the press releases and events. Report in full to DG PR NW. DG PR US
4. Have GO 1361 documents reviewed for possible legal action in the event breakdown of negotiations or reversion. Target out full preparation of legal actions for this, send to DG L NW for OK. DG L US
5. Once GO 1361 collection is complete, have FSMs continue to survey for new data on IRS actions or intentions towards us. DG I US
6. Have FSMs collect data for Ops or use in Br I PR that is entirely in IRS territory. DG I US 22 JAN 76
7. Plan and target use of exemptions of all US Orgs (should CoSoFC get its exemption) to dead alert any IRS enttheta existing in other government agencies or elsewhere. Issue as a PR Project if it is needed. (It won't be needed if CoSoFC doesn't get exemption.) DGPR US
8. Continue to tie in IRS in FREEDOM as a tat for general criticism and ridicule. The IRS/FSM/AMA/ Psychiatry are all big Brother agencies and can be tied together editorially and by cartoon for their bureaucratic misdeeds. DGPR US
9. Get FRCs prepared on GO 1361 docs for use when suitable guise turnover is accomplished, or for use if legal can obtain docs through FOI. DG PR US
10. Target out handling of IRS FOI for maximum effectiveness (i.e. getting all the docs and correction), issue as Legal Bureau US Project with LW OK. DG L US

Henning Heldt
DGUS

for

Jane Member
The Guardian NW

Hil/bc

154-1

GOVERNMENT
EXHIBIT
5.2

62 15
1 May 1974

WATER-UP

To all CG Infos and AG Infos

RE: SECURITY AND THEFT OF MATERIALS

From time to time files, policies, technical materials and documents vital to the Church have been stolen from Organizations. These thefts are usually performed either by PTs and nut-cases who hope to make some personal gain out of selling or using the material. On other occasions such thefts are committed by professionals operating in the field of data collection. It is important that for purposes of security we be able to recognize the difference between a nut and a professional. Therefore I am giving here a description as to how the professional operates in stealing materials by infiltration or by straight breaking, entering and theft.

Many references are available on this subject concerning industrial espionage and a large volume of books have been written on the subject. However, it would appear that a lot of this data has been ignored and it is time that we had it.

CASING

The first step in any breaking and entering job is casing. This consists of checking out the area to ascertain the possibilities for breaking into the premises. It frequently amounts to the surveillance of an unstaffed duration made on the place to obtain a rough or precise idea of the schedules of the staff, when the office is empty, whether there are burglar alarms and what is the best method of entry.

Other factors such as police patrol in the area, number of public passing by the area, visibility through windows etc., can be considered depending on circumstances. The person doing the casing usually takes every effort to ensure that he is not spotted while he is doing the casing, as the police are very used to this method and consequently after a theft has been reported or documents found missing will check this aspect to see if any strangers have been noted in the neighbourhood, etc.

SECURITY OF THE OPERATION

The first consideration on security is always the personnel chosen to do the job. Professionals would usually choose someone who is confident and competent, easily trainable and fully trained. In other words in Scientology terms, people who are not PTs, who are not ethics cases. Additionally one would normally choose someone who is motivated by duty or other high motivation to prevent later sell-outs or discovery by reason of an agent turning.

The second security is basically to devise a plan based on effective casing that avoids any chance encounters, mistakes or confusion while the operation is being executed.

C-16
P 90
176

The third security on the operation itself is the factor of returning the materials before they are noticed to be missing, thereby preventing anyone from ever finding out that a theft has occurred. This subject is covered later.

SECURITY OF THE OPERATIONS

Professionals at all times wear gloves during an operation. This prevents fingerprints being left behind by which the agents could be traced. Gloves used are frequently light cotton gloves such as women's dress gloves. Another type used is an underglove used by motorcycle riders to wear underneath the motorcycle gauntlet to keep their hands doubly warm in winter. Such gloves are thin and do not interfere too much with the use of hands and fingers for detailed jobs. Additionally papers, files and other material can be leafed through or paged through easily.

If there is any difficulty in handling papers with gloves on, an agent might use rubber finger stalls to help him read through documents. These are small rubber caps with a rough surface that go over the tips of the fingers, used by people who have to do a large amount of paper sorting.

The reason for using gloves has nothing to do with the actual identification of the agent in connection with the job at hand, unless the agent is picked up at a later date or on another job. However, gloves are worn as a routine matter because someone doing a series of jobs in a row could leave himself wide open by leaving prints behind for the police to compare prints on several different jobs, find out that only one individual was involved and possibly by thoroughness of checking, isolate the people or persons who were in the area at the right times. Therefore professionals always wear gloves, whether his prints are recorded with an official agency or not.

There are only a few surfaces that will take a fingerprint that can then be cleaned off. Such surfaces are plastics and metal. Virtually every other surface will retain a print for a long period of time. Modern scientific methods have made it possible to retrieve prints that have long since faded with age and are not recoverable by the old-fashioned technique of fingerprint powder. Scotland Yard have in fact developed a device that will pick up a fingerprint off a piece of paper that has been floating in a river for over three months.

SECURITY OF THE ORGANIZATION

Professionals are always working for some person or group which for the purposes of this section will be referred to as an organization. If the agent's motivation for working for the group is high, then this section will concern the agent as well.

Any professional intelligence group has to confront the possibility that at some stage an agent will be picked up. The most serious of these is when the agent is picked up in the actual act of stealing documents or in position where he is about to steal documents, or has just stolen documents and is moving to his home with the material. Therefore agents are frequently given instructions along the lines of "if you are picked up by the police, don't say anything more than you are required to by law", which is usually your name and address but this varies depending on the area. This is of course if the agent is in a position where no story would explain the outposts confronting the police. The agent will probably be arrested at this stage and should quickly arrange a lawyer

through a law or legal aid society. Such a class around these days and a name so address of one can be used beforehand.

The organization usually arranges some method of communication so that the agent can tip them off that he has been picked up. Any organization that has a desire to retain its agents or to continue recruiting agents, usually has the sense to provide bail through some bail bond system that allows the organization to remain anonymous, pays any legal fees incurred and gives every possible moral encouragement.

Additionally, any agent working on such operations would have nothing in his possession that connected him with the organization, nothing at his home address that connected him with organization and no possible way of tracing him back. For example, an alternative employment or no employment, but certainly no mention of employment by the organization. This is the usual exchange between agent and organization in the event of an arrest. The agent protects the organization, the organization assists the agent in every possible way. Such preparations are also usually made well in advance, so that the agent's recent history does not show any connection with the organization.

COVER STORY

One trick used by professionals is, after the casing has been completed and the plan decided on, a series of cover stories are worked up to cover each stage of the operation in the event that the operation is blown at any point. Such cover stories usually relate to the most vulnerable state of operation. For example, an agent might prepare a story as to why he was in that particular neighborhood, why he was on that particular street, why he knocked on that particular door, even what he was doing in that particular backyard. Thus if he is picked up at any of these points he has a plausible explanation as to what he is doing.

On occasion cover stories are worked up to cover being caught in the act. It is sometimes to the advantage of the agent and the organization, if the police believe that the agent was actually breaking in for money or goods, rather than documents or files, as the police have a common A with criminals who they can duplicate, but sometimes get frantic when confronted with intelligence operations. Such cover stories as mentioned above would also be designed to handle the local security guard, the local resident or staff member or whoever discovers the agent in the beginning stages of the operation.

TOOLS AND EQUIPMENT

Tools and equipment have always been a problem to agents in any operation because the standard lock picking devices, crowbars, sledgehammers and hammers and standard items used for breaking into a place are easily recognized by the police. In fact in some places carrying such instruments is in itself an offense. An agent picked up on suspicion prior to an operation could find himself in hot water even though he had not yet actually done anything. Therefore an agent will usually try instead to obtain a key to the place he wants to enter beforehand or find a method of entry that does not require the use of instruments and tools. As this is not always possible an agent will attempt to avoid detection by

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carrying the tools for as short a time as possible in connection with the operation being done, or disguise the tools in some way that they cannot be recognized, such as a thin plastic comb instead of a strip of cellulose or a hair-grip instead of a lock pick.

Some agents and organizations devise ingenious methods of hiding the equipment usually in concealed pockets in rigid items such as cigarette lighters and fountain pens. Most agents, however, rely on the two key factors involved during an operation which are 1) attending to minor detail before you get started, and 2) keeping your cool and staying up together while the operation is on.

THE FILES THEMSELVES

Best way of preventing being caught at a later date is of course to ensure that no one finds out that anything ever happened in the first place. In other words copy the files and return them. Most agents operate on this basis, at least the professional ones do. However, orgs have also been plagued with files going missing and never to be seen again. Such operations are not professional, unless done with the express purpose of making the files disappear in the first place. This is of value to some professionals as a file containing vital planning or documents disappearing, could have damaging effect on the group. Obviously gloves would also be used when the documents are copied and in the subsequent operation to return the documents.

PLANTS

There has already been much written about plants so I won't go into any great detail here, but just two notes.

A plant in any organization or group has a job in an area he operates in. The staff of the organization are accustomed to seeing the person in that area. Additionally the person's fingerprints would normally only be found in that area. Therefore a plant wishing to remove files from another section of an organization would do so at a time when he or she wouldn't be seen and would do it with only gloves on.

I hope you will find the above useful. I may have gone into too much detail in some places, but the data should help you combat thefts of documents effectively as anyone of the points outlined picked up on a person, would be an indicator of a professional operating. I hope you will keep alert to these.

Vo Dudlong
D/G Information TJ

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

Criminal No. 78-401(2)&(3)

JANE KEMBER :
MORRIS BUDLONG :

a/k/a MO BUD ONG :

(6)

SENTENCING MEMORANDUM OF THE UNITED STATES OF AMERICA

The United States of America respectfully submits this Sentencing Memorandum to aid the Court in imposing sentence in this case.

I.

Introduction

The defendants, Jane Kember and Morris Budlong, were each found guilty, following a jury trial, of nine counts of aiding and abetting burglary in the second degree. The evidence which led the jury to return these guilty verdicts revealed that during the years 1973 to 1976 the defendants ordered the commission of brazen, systematic and persistent burglaries of United States Government offices. Their purpose was to ransack these offices of all documents of interest to the organization which they led -- the Guardian's Office of the Church of Scientology -- in order to secure total exemption from taxation and to protect Scientology's founder, L. Ron Hubbard. In the process, from their headquarters in East Grinstead, England, they challenged and attempted to undermine the judicial and governmental structure of the United States. They did so by fraudulently using the Freedom of Information Act (FOIA) in a manner never intended by the Congress of the United States.

As this Court heard these defendants set about filing FOIA requests with various Government agencies in order, inter alia, to cause these agencies to gather all the requested documents in a central repository for the review process mandated by the FOIA. Once the Guardian's Office discovered where these documents were located, they began a systematic pillaging of that office -- repeated,

and surreptitiously breaking into that office, taking the documents, photocopying them with Government equipment and supplies, and replacing them in the Government files so that, in the words of defendant Budlong, these thefts would not be uncovered

Notwithstanding the fact that they had obtained illegally all the documents they were seeking, they proceeded to file FOIA suits in the courts of this country, complaining that the particular Government agencies had not given them all the documents to which they were entitled. Thus, they perpetrated a fraud upon the American judicial system. They came into the American courts with unclean hands, seeking documents which they had already obtained by violating the laws of the United States. After abusing the trial courts, they proceeded to abuse the appellate courts never disclosing that they were engaging in litigation in bad faith, totally heedless of the waste of judicial resources involved. Such conduct, which strikes at the very heart of the judicial system, cannot be tolerated.

These defendants additionally ordered the theft of documents and memoranda of attorneys representing the United States Government, a party against whom they had instituted a variety of lawsuits. They did so to discover the attorneys' legal strategy and gain an unfair strategic advantage in the courts. In effect, they violated the attorney-client privilege of every litigant who opposed them, a fact which they seek to obfuscate by complaining in bad faith, that their own attorney-client privileges were violated. Such conduct cannot be permitted in our judicial system.

Once their emissaries were caught in the midst of one of their criminal acts, the defendants orchestrated from England a massive obstruction of the due administration of justice. Such outrageous conduct, which, we submit, this Court can consider under standards recognized by the Supreme Court, strikes at the very heart of our judicial system -- a system which has often, at crucial times in our history, been the savior of our institutions.

Moreover, a review of the documents seized from the two Los Angeles, California, offices of the Guardian's Office -- including log books of messages from these two defendants -- show the incredible and sweeping nature of the criminal conduct of these defendants. Indeed, Guardian Program Order 158, and some of the other orders in evidence, have already provided the Court with a glimpse of this conduct. These crimes included: the infiltration and theft of documents from a number of prominent private, national, and world organizations law firms, newspapers, and private citizens; the execution of smear campaigns and baseless law suits for the sole purpose of destroying private individuals who had attempted to exercise their First Amendment rights to freedom of expression; the framing of private citizens who had been critical of Scientology, including the forging of documents which led to the indictment of at least one innocent person; and violation of the civil rights of prominent private citizens and public officials. These are but a few of the criminal acts of these two defendants which, we submit, give the Court a glimpse of the heinous and vicious nature of their crimes.

In view of the severity of the crimes of which the defendants Kember and Padlong were convicted, the high level of their positions in the organizational hierarchy of the Guardian's Office, compared with the positions held by their nine co-defendants who were convicted after a non-jury trial based on an uncontested stipulation of evidence, as well as the additional information which we now bring to this Court's attention, we submit that the public interest demands the imposition of substantial terms of incarceration. This Court must make it clear beyond peradventure that the criminal conduct of these two defendants cannot be countenanced, and that anyone who sets about masterminding and executing the crimes of which they are convicted uses and then tampers with the judicial

- 4 -

system as they have, will be dealt with in the most severe terms provided by the law.

II.

The Law

The right of this Court to consider evidence of other crimes prior to imposing a sentence has long been recognized. It is well settled that before making [a sentencing] determination, a judge may appropriately conduct an inquiry broad in scope, largely unlimited either as to the kind of information he may consider, or the source from which it may come." United States v. Tucker, 404 U.S. 443, 446 (1972). Courts have a duty to obtain as much information as they can about a convicted defendant's background, character, and conduct, criminal or otherwise, so that they can impose a sentence to fit the circumstances of the case and the individual defendant. See United States v. Grayson, 438 U.S. 41 (1978); 18 U.S.C. § 3577 (1976). Thus, hearsay assertions are admissible, Williams v. Oklahoma, 358 U.S. 576 (1959), as is information about prior crimes committed by the defendant, even if the indictments for those crimes are pending, United States v. Metz, 470 F.2d 1140 (3d Cir. 1972), cert. denied, 411 U.S. 919 (1973); or the defendant was never tried for the other crimes, Williams v. New York, 337 U.S. 241, 244 (1949); or the charges were dismissed without an adjudication on the merits, United States v. Doyle, 348 F.2d 715 (2d Cir.), cert. denied, 382 U.S. 843 (1965); United States v. Needles, 472 F.2d 652, 655 (2d Cir. 1973); or the defendant otherwise avoided conviction. United States v. Jones, 113 U.S. App. D.C. 253, 307 F.2d 190 (1962), cert. denied, 372 U.S. 919 (1963); United States v. Cipicelli, 401 F.2d 512, 514 (2d Cir.), cert. denied, 393 U.S. 987 (1968). Even facts developed in prosecutions where the defendant was acquitted can be considered by the sentencing judge. United States v. Weig, 451 F.2d 181 (2d Cir. 1972).

In addition, the Court can consider all the circumstances surrounding a defendant's conviction for the present crime. A court is also warranted in increasing the sentence when it believes that the defendant has undermined the judicial system through repeated perjury. United States v. Grayson, supra.

III.

The Charges on Which the Defendants Were
Convicted and the Continuation of the Burg-
laries after Meisner and Wolfe Were Caught.

Each of the two defendants now before the Court were found guilty of nine counts of aiding and abetting second degree burglaries of government offices at the Internal Revenue Service, the Department of Justice and the office of an Assistant United States Attorney in this very courthouse. The evidence at their trial proved beyond any doubt that the defendants not only commanded and directed these burglaries but also received the fruits of the burglaries -- copies of the stolen Government documents -- and that they commended and rewarded their subordinates for their success in these criminal endeavors. Based on this overwhelming evidence, with which this Court is intimately familiar, a jury returned unanimous verdicts of guilty against both defendants.

The evidence further shows, however, that the defendants did not stop their elaborate schemes on June 11, 1976 when they were informed that Michael Meisner and Gerald Bennett Wolfe had been confronted by the Federal Bureau of Investigations in this very courthouse during one of their attempted burglaries. Indeed, to the contrary, the evidence overwhelmingly demonstrates that the defendants continued to issue Guardian Orders and directives commanding crimes identical to those for which they have been convicted. We submit that such evidence is probative at a sentencing because it brings into focus more than anything else the refusal by the defendants to live by the law -- their apparently intractable

conviction that they are somehow above the law. This is illustrated by Mrs. Hubbard's statement on the witness stand that she and her codefendants, including these two defendants, felt they could do to others whatever they perceived, however erroneously, others were doing to them. Thus, they created the "Intelligence" or "Information" Bureau because they decided they had no use for the lawful remedies provided by our legal system. See e.g.: ^{W-10472} Government Exhibit No. 2 a. trial. Such behavior, we submit, cannot be tolerated in any civilized society.

The following is a sampling of a few of the directives and orders which show that the defendants continued their illegal activities beyond June 1976:

Date and Exhibit

Order or Communication

31 July 1976
(Gov't Exh. No. 109)
(Exh. No. 1 hereto)

Compliance Report Re: Guardian Program, Order 102 Operating Target 5. Top priorities for penetration of Government agencies. Among agencies targeted for penetration: CIA, FBI, Defense Communications Agency, Federal Protective Service, Federal Bureau of Prisons, Office of the President and Vice President of the United States, the United States Senate, and the Administrative Office of the U.S. Courts.

15 October 1976
(Gov't Exh. No. 107)
(Exh. No. 2 hereto)

Defendant Budlong to Richard Weigand: "Attached is a project which can be utilized to debug and accomplish any infiltrating target you may have trouble with in your area." Budlong demands that "[e]ach time it is implemented . . . B 1 WW is to be notified." The attached project is called WEAVER NEEDLE. Major Target: "To successfully infiltrate (name of agency or organization) to locate and obtain their files on the C of S."

27 May 1977
(Gov't Exh. No. 111)
(Exh. No. 3 hereto)

Defendant Jane Kember reissues Guardian Program Order 158 as GP330 158 R (Reissue). While tracking the previous order of 5 December 1975 it redefines it and changes some of the targets. Defendant Budlong's title appears immediately before Kember's name at the end of the order, indicating he approved the order.

3 June 1977
(Gov't Exh. No. 112)
(Exh. No. 4 hereto)

U.S. Secretary W.W. Hermann Brendel in a communication sent to defendants Kember and Budlong also lists priorities for B 1 U.S., including obtaining all U.S. Government files, and U.S. District Attorney, Los Angeles, files. It lists various operations against private individuals and organizations and state agencies including getting:
(1) Susan Mondale "checked out;"
(2) "Time-Life books discredited."

Additionally, based upon the correspondence between the defendant Jane Kember and Deputy Guardian U.S. Henning Heldt, there is no question but that the defendant Kember directed, encouraged, and personally monitored the Guardian's Office attempt to attack and destroy Assistant United States Attorney Nathan Dodell. Indeed on June 6, 1976, defendant Kember wrote to Heldt: 'Have we ever done a really thorough B1 investigation of Dodell? . . . let me know what B1 found on him . . . want the intell[igence] actions looked over.' That directive was complied with on 29 June 1976. See Exh. No. 5 hereto. Then on June 9, 1976 defendant Kember telexed former co-defendant Heldt: "Re: Justice Dodell attack strategy & yr desp[atch] 4 June. I consider that yr actions are excellent and that you are holding the line beautifully. V[ery] W[ell] D[one] and let me know how it goes." She was given the information on 29 June 1976. See Exh. No. 7 hereto.

We submit that a mere sampling of the orders and communications emanating from these defendants indicates their heavy involvement not only in the criminal activities for which they were convicted but also in identical criminal activities for at least the year following the FBI's confrontation with Meisner and Wolfe in this courthouse.^{1/} Such a pervasive pattern of conduct would indicate

^{1/} While Kember and Budlong claim that the burglaries were carried out solely to remove "false reports" from Government files, the documents show otherwise. In fact, one of the programs of the Guardian's Office called for the deliberate planting of false reports in Government files. In a World Wide Project issued 16 September 1975 by (continued on next page)

✓ that the only reason our proof of these criminal ventures ends in June 1977 is that the searches took place on July 8, 1977. One can only speculate as to whether these illegal activities were ever terminated by these defendants.

(1/ continued from preceding page)

aide David Gaiman, Deputy Guardian for Public Relations World-Wide, an operation is ordered to plant false information in U.S. Security agency computers, "to hold up the American security to ridicule, as outlined in the GO by EXH. 5 - It describes the plan as "to take a cat with a pedigree name . . . and to get the name into a computer file, together with a record whether it be criminal, social welfare, driving or whatever; and to build the sequence of events to the point where the creature holds a press conference and photographic story results." The project called for the use of plants to place the false information in a U.S. security agency computers. See Exh. No. 5 hereto.

IV.

The Obstruction of justice

The seized documents demonstrate beyond peradventure that the two defendants before the Court for sentencing, Jane Kember and Morris Budlong, from their secure haven in East Grinstead, England, orchestrated a massive cover-up, obstructing the administration of justice in the United States. They suppressed and fabricated evidence to be presented to investigating authorities and the grand jury in order to insulate themselves and Scientology from liability for the crimes which they had ordered and committed, including the nine burglaries of which they now stand convicted. In so doing, they committed crimes ranging from harboring a fugitive to suborning perjury. Not only did they commit these crimes against the American judicial system, but they did so with impunity. Examples from a few of the seized documents provide a flavor of the brazenness and inglemindedness with which these two defendants set about obstructing the American judicial system. We submit that this Court not only can, but indeed should, consider this evidence in assessing the culpability of these defendants and the likelihood of their rehabilitation, or lack of such likelihood.

A. As to Jane Kember, the following are summaries of but a few of her communications which show her clearly at the helm of the conspiracy to obstruct justice:

Date and Exhibit

Communication

June 25, 1976
GWW Log Book,
p. 141 (Exh. No.
8, hereto)

Jane Kember sends telex to Henning Heldt:
"Re: Guardian's Office D.C.,
Evaluation. Leave Herbert [Meisner]
where he is. If Patsy [Meisner]
not OK work out other solution."
[Complied to November 18, 1976].

October 29, 1976
GWW Log Book,
p. 149 (Exh. No.

Jane Kember sends telex to Henning
Heldt:
"Henning. I am totally overrun

9 hereto)

November 1, 1976
GWW Log Book,
p. 150 (Exh. No. 10
hereto)

November 1, 1976
GWW Log Book,
p. 151 (Exh. No.
11 hereto)

November 12, 1976,
GWW Log Book,
p. 155 Exh. No.
12 hereto)

January 11, 1977,
GWW Log Book,
p. 162 Exh. No.
13 hereto)

April 20, 1977,
Exh. No. 14
hereto)

10
on not getting vital data from BI
lines. I want the following data
in full. Re: MM [Mike Meisner] and
your Boffin eval which has not even
been received at WW. Are you having
trouble with MM [Meisner] and why?
I want full report and precise
details. What are the possibilities
of a Grand Jury investigation? I
want full details. Why does the CSG
[Mary Sue Hubbard] ordered time sche-
dule have to be altered to await the
outcome of the Silver [Wolfe] trial.
If MM pleaded guilty could he then
just say nothing or appear to be
type 3 [oracy]? Will you please get
me a full report of this whole scene
without any justifications as to
security being the reason for with-
hold of vital data. Much love, Jane."

Jane Kember sends telex to Henning
Heldt:
"Problems appear to be with MM [Meis-
ner] (1) Overts [thoughts against
Scientology] been pulled [i.e.,
drawn out of him in an auditing
session]?; (2) Is he producing? (3)
Anyone explained that coopera-
tion out of the question; (4) any-
one explained why we want Silver's
case handled first?; and (5) anyone
explained he will not open his mouth?
."

Jane Kember to Henning Heldt:
D.C. MM [Meisner] Mess. Please
get BI data up the line fast and
also data on urgent situations."

Jane Kember to Henning Heldt:
"Re: Herbert [Meisner]. That
sounds much better. Please let
me know when his overts have been
pulled." [See Exh. No. 10, supra].

Jane Kember to Henning Heldt:
"Henning, Please send me a list of
all the people who know about the
M [Meisner] cycle. Then please
report or how you are getting eyes
only actually being duplicated and
all extraneous people off, repeat
off, the lines. Much love, Jane."

Handwritten letter from Jane Kember
to Henning Heldt:
[Jane Kember sets out in detail the
present plans for the cover-up, and
asks what is causing the delay in
completion of the cover-up. She
concludes: "Please write a detailed

11 report which actually answers these
questions").

B. As to Morris Budlong, the seized documents clearly show that every detail of the cover up had to receive his specific approval. For example:

Date and Exhibit

September 28, 1976
(Exh. No. 15
hereto)

November 2, 1976
(Exh. No. 16
hereto)

December 1, 1976
(Exh. No. 17
hereto)

January 24, 1977
(Exh. No. 18
hereto)

Communication

from Mo Budlong to Dick Weigand, DGIUS,
cc: to Jane Kemmer:

Sets forth plan for harboring Meisner as a fugitive (change his identity, go into hiding) and obstructing justice by having Wolfe plead guilty, giving no details of the reason for being in the courthouse. Concludes: "If any of the above is not clear, please ask immediately. I don't want any confusions on what has to be done."

Mo Budlong sends telex to Greg Willardson, DGIUS, criticizing the Information Bureau for handling the obstruction of justice by itself without help from the Legal Bureau. Concludes:

Rectify this immediately. BI handles security and keeps M [Meisner] and Silver [Wolfe] cheered up. Legal handles the cases and Legal handling. You will wrap all of BI round a telegraph pole if you continue this way. Send full explanation by telex, love, Mo.

Mo Budlong, cc: to Jane Kemmer, from Mitchell Hermann:

sets out details on how the obstruction of justice is being handled in the United States Guardian's Office. Concludes by telling Mo Budlong that the overall cover story for Meisner and Wolfe is being prepared for his final approval.

Telex to Mo Budlong from Dick Weigand, DGIUS:

Re: Silver [Wolfe]: Justice going for Grand Jury on Silver matter this month. Also Justice wants to talk with Silver. Plan is to stall Grand Jury by Silver promise of talk in end of January. Handling is to get Silver briefed and drilled at US by BI and Legal to give Justice admission of guilt and back-up story if needed from Herbert [Meisner] currently at MW, specifically Tgt. 4. Need your ok on use of Tgt. 4 to proceed.

12
Intention is with Silver drilled and briefed he can get Justice to drop Grand Jury. Grand Jury not wanted as Silver could be given immunity then made to give data as no 5th Amendment rights after immunity. When data from him could be used to go after Herb [Meisner] or even use against Silver if proved false. Can I get your telex OK or not OK on Tgt. 4 so I can proceed. Love, DGIUS.

January 24, 1977
(Exh. No. 19 hereto)

In reply to the above, Mo Budlong sends telex to Dick Weigand, DGIUS:

"Target 4 on my copy is to brief Silver on story. This is OK but DGLW requires more data on grand jury's powers and has asked DGIUS for same [A] If Silver [Wolfe] states that he will plead guilty will Grand Jury proceed? [B] Is Grand Jury going for indictment on Silver or Murphy? [C] If Silver is to plead guilty, why does he need a story? [D] Also per plan, if Murphy [Meisner] is to plead guilty, why does he need a story? Surely sequence is he is arrested, goes to trial, pleads guilty and is sentenced. Much love, MO."

January 24, 1977
(Exh. No. 20 hereto)

In reply to the above, Dick Weigand telexes Mo Budlong:

"Re: Silver [Wolfe]. Reply to your Q's: (A) If Silver pleads guilty, matter should not go to Grand Jury. This needs to be verified by Legal. (B) Grand Jury is for Silver. (C) Story for following: United States Attorney's Office District of Columbia has theory that Silver and Herb [Meisner] after documents for Church. They want to determine what Silver was up to and what charges if they determine theory not true. A meeting with them was set up to their request to go over this. Silver story for mapping. Purpose twofold: to provide time for legal to research and to see if U.S. Attorney's Office can be convinced to drop charges. Silver's attorney predicts Silver will be charged with impersonation and forgery of I.D. and trespass. Silver has acknowledged doing this. Difficulties would come if he were also charged with conspiracy and Grand Jury was used to try to develop this charge aimed at Church. (D) Murphy [Meisner] story would be needed for same sit. . . .

May 3, 1977
(Exh. No. 21 hereto)

To Mo Budlong from DGIUS, Dick Weigand and Greg Willardson, DGIUS; reports on handling of Meisner due to his lack of cooperation:

"We went back to BI and organized a crew of guys to handle the worst eventualities

B

by force if necessary (i.e., gag, handcuff, etc.)"

"We eventually got to [Meisner's] at about 2:15 a.m., 30 April, and Dick, Brian (SE Sec) and I went in to see [Meisner] first with the three guards . . . Herbert was quite upset about the guards initially . . . [H]e was not going to allow guards staying with him. He then threatened that ther he would have to leave even if he had to make a scene, including involving the police

"At times throughout the above conversations the guards and I were searching through his belongings removing any materials connected with the Church or his notes on the scene, and safeguarding dangerous implements like knives, razors, etc.

"We then left at about 6-6:30 a.m. with the guards in charge."

To: Mo Budlong; from DGIUS, Dick Weigand:

". . . The guards stayed with [Meisner] and are with him now.

"Then on Saturday and Sunday I had people continue to look for a better place to take him. Sunday a place was found and Brian and the guards tried to move him. He refused and said he would pull in all sorts of trouble if we tried to get him out the door. He was physically removed from the building, and taken to the new place where he is still under constant watch. His auditing will hopefully be started today as the auditor is getting handled today"

Letter (CSW) from DGIUS to Mo Budlong containing handwritten approval by Budlong: DGIUS proposes a slight change in the cover story to be used by Meisner when he turns himself in after a year as a fugitive. He is to claim that he found out he was wanted by calling his wife, instead of by calling Wolfe, as was originally the story. Mo approved the change in the cover story on June 12, 1977, writing: "This change is fine. Love, Mo B"

To Mo Budlong, cc: to Jane Kember, from Cindy Raymond:
Mo (and Jane) are informed attached that Meisner has escaped and that B-1 is developing programs, inter alia, to provide a cover for his turning."

May 2, 1977
(Exh. No. 22 hereto)

June 7, 1977
(Exh. 23 hereto)

June 22, 1977
(Exh. No. 24 hereto)

14 Thus, as the evidence shows, these defendants orchestrated an elaborate cover-up, beginning in June 1976 and continuing through June 1977 and, no doubt, thereafter. In fact, a significant part of the defense they presented at trial -- their attack on the integrity and reliability of Michael Meisner -- was foreshadowed in the "obstruction documents." They presented this Court with a shabby attempt at impeaching Meisner's credibility by claiming that he stole money from the Church -- the same false claim they made against another former Scientologist who had the courage to expose their crimes and thus fell victim to their fair game doctrine. Allard v. Church of Scientology of California, 58 Cal. App. 3d 439, 129 Cal. Rptr. 737 (Ct. App. 1976), cert. denied, 97 S. Ct. 1101 (1977).

It is the two defendants before the Court for sentencing who, along with their already convicted and sentenced cohort Mary Sue Hubbard, bear the greatest degree of responsibility for the massive conspiracy to obstruct justice which they jointly directed. While the others already convicted of that offense (Henning Feldt, Duke Snider, Gregory Willardson, Richard Weigand, Cindy Raymond, and Gerald Bennett Wolfe) indeed deserved the punishment they received, they acted under direct orders of Jane Kember and Morris Budlong, a factor appropriate for consideration by this Court in assessing the relative severity of the sentences that the defendants Kember and Budlong should receive.

Other Crimes Committed by These Defendants

The defendants' contention that they committed the crimes of which they stand convicted in order to protect their Church from Government harassment collapses when one reviews a sample of the remaining documents seized by the FBI during the execution of the two Los Angeles search warrants. If anything, these documents establish beyond question that the defendants, their convicted co-defendants, and their unindicted co-conspirators, as well as their organization, considered themselves above the law. They believed that they had carte blanche to violate the rights of others, frame critics in order to destroy them, burglarize private and public offices and steal documents outlining the strategy of individuals and organizations that the Church had sued. These suits were filed by the Church for the sole purpose of financially bankrupting its critics and in order to create an atmosphere of fear so that critics would shy away from exercising the First Amendment rights secured them by the Constitution. The defendants and their cohorts launched vicious smear campaigns, spreading falsehoods against those they perceived to be enemies of Scientology in order to discredit them and, in some instances, to cause them to lose their employment. Their targets included, among others, the American Medical Association (AMA), which had branded Scientology's practice of "dianetics" as "quackery"; the Better Business Bureau (BBB), which sought to

This is precisely how Scientology's critics viewed Scientology's activities. Newsweek, November 20, 1978 at 133: "The Church of Scientology relies on suits and petty harassment to register its complaints. In August, the Scientologists slapped a \$1 million suit on the Los Angeles Times after it ran a series about the Church. The Times wasn't accused of libel; rather, the Scientologists claimed that the paper conspired with the FBI and Justice Department to violate the church's civil rights by poisoning the atmosphere before a trial" of the nine convicted co-defendants. See also discussion, infra, regarding Scientology's lawsuits against its perceived "enemy", Paulette Cooper.

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respond to private citizens' inquiries about the courses offered by Scientology, newspapers which merely sought to report the news and inform the public, law firms which represented individuals and organizations against whom Scientology initiated law suits (often for the sole purpose of harassment); private citizens who attempted to exercise their First Amendment rights to criticize an organization whose tactics they condemned; and public officials who sought to carry out the duties for which they were elected or appointed in a fair and even-handed manner. To these defendants and their associates, however, anyone who did not agree with them was considered to be an enemy against whom the so-called "fair game doctrine" could be invoked. Allard v. Church of Scientology of California, supra. That doctrine provides that anyone perceived to be an enemy of Scientology or a "suppressive person," "[m]ay be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. [He m]ay be tricked, sued or lied to or destroyed." Id., 58 Cal. App. 3d at 413 n.1, 129 Cal. Rptr. at 800 n.1.^{3/} This policy, together with the actions of these defendants who represent the very top leadership of the Church of Scientology, bring into question their claim that their Church prohibited the commission of illegal acts.

The United States submits that the activities outlined in this section show the scope, breadth and severity of the crimes committed

^{3/} This led the California Court of Appeals to state that "Any party whose tenets include lying and cheating in order to attack its 'enemies' deserves the results of the risk which such conduct entails." Id., 58 Cal. App. 3d at 452, 129 Cal. Rptr. at 805.

Defendants, through one of their attorneys, have stated that the fair game policy continued in effect well after the indictment against them and the conviction of the first nine co-defendants. Defendants claim that the policy was abrogated by the Church's Board of Directors in late July or early August, 1980, only after the defendants' personal attack on Judge Richey. Transcript of September 5, 1980, at 14.

were minutes of meetings between the AMA and the National Medical Association; memoranda of discussions with the federal Department of Health, Education and Welfare; and memoranda regarding the Joint Commission on the Accreditation of Hospitals (JCAH) and the Coordinating Committee on Health Information (CCHI).

Another covert operative was placed in the Chicago headquarters of the AMA in order to obtain all documents on the CCHI. That agent, Sherry Hermann, a/k/a Sherry Canavaro, a/k/a Sandy Cooper, obtained all these documents and relayed them to her husband, co-defendant Mitchell Hermann who was her case agent. (Exhibit No. 26 hereto.)

In the Spring of 1975, Mr. Meisner received an order to covertly leak to the press the numerous AMA documents which had been obtained in the District of Columbia and Chicago. That action was intended to provoke investigations of the AMA's tax exempt status by Congressional Committees, the IRS, and the Federal Trade Commission. Pursuant to these directives, Mr. Meisner was to anonymously contact reporters and send them copies of these stolen documents. Newspapers subsequently referred to that anonymous source as "Sore Throat."

Defendants Kember and Bu long were kept constantly apprised of the operations concerning the AMA, and indeed encouraged these activities. Thus, for example, on October 16, 1975, Jane Kember told Henning Heldt, in response to a report of his on October 7, 1975: "AMA: SORE THROAT . . . Let me know how this goes." GWW Log, p. 101, Exh. No. 27 hereto. And again on October 21, 1975, defendant Kember telexed to Heldt the cover story to be used by AMA infiltrators, if caught:

Henning Re: Sore Throat . . . David [Gaiman .

4/ (continued from preceding page)

the AMA D.C." Co-defendant Raymond discussed the placement of Jodie Gumpert as a second covert agent at the AMA in the District of Columbia, her detection by the AMA, and her subsequent infiltration of the Clearwater Chamber of Commerce.

/DGPRWW has laid down a strategy which is to enable us to contain the scene. Our plants when trapped are Free on investigative reporters just like any other newspaper. The plants themselves do not have to confess or be name We can undercut AMA's continual effort to expose us by indicating it is a smokescreen to prevent Freedom from publishing. . . . ML', Jane

GWV Log, p. 101, Exh. No. 27 hereto. Likewise, on October 7, 1975, defendant Budlong telexed Weigand, DGIUS:

Dick, Sore Throat is an Intelligence matter. Nothing in your data indicates a situation requiring other Bureau assistance. Send full data on the scene before you hand Sore Throat matter over to anyone else. Love, Mo

DGIWW Log, p. 27, Exh. 27-A hereto.

Better Business Bureau

The infiltration of the Council of Better Business Bureaus (CBBB) began on December 4, 1972, with the placement of Sherry Canavaro (later Sherry Hermann, a/k/a Sandy Cooper) as a covert agent within that organization. (Document No. 16727.) Defendants Kemmer and Budlong were informed of Scientology's covert operations within the CBBB and prospects that the covert agent might become the CBBB's representative to the CCHI (Coordinating Conference on Health Information). (Exhibit No. 28 hereto).^{5/}

Mental Health Organizations

Guardian Order 121569 MWH (1) issued on December 15, 1969, directed the infiltration of all mental health organizations both nationally and world-wide. Exhibit No. 29 hereto. This Guardian Order was carried out on a number of fronts by operatives of the Information Bureau headed by defendant Budlong. Thus local mental

^{5/} One of the functions of the CCHI was to coordinate efforts against groups believed to promote quackery. The defendants were successful in having their covert operative become the CBBB's representative to two CCHI meetings, one of which she was able to tape.

health organizations were infiltrated by covert operatives in Las Vegas and St. Louis. Indeed, the Assistant Guardian for Information in Las Vegas reported that, "everything possible was done to collect this data, everything from infiltration to stealing to eavesdropping, etc. . . ." (Document No. 1333..)

Co-Defendant Sharon Thomas was recruited as a covert operative in 1973 in the District of Columbia by co-defendant Snider, the Assistant Guardian. She was later assigned to infiltrate the American Psychiatric Association (APA). Beginning in January 1974, co-defendant Hermann supervised co-defendant Thomas' APA thefts. While in the APA, co-defendant Thomas stole documents regarding Scientology as well as confidential files of the APA's Ethics Committee concerning complaints against psychiatrists. (Document Nos. 8804 and 8805.) These stolen documents were sent to defendant Budlong.

Moreover, Guardian Program Order 1238 (Exhibit No. 50 hereto), issued by the defendant Kember and approved by the defendant Budlong, had as its "major target:"

To obtain the information necessary to take over the control of NIMH [National Institute of Mental Health] while at the same time establishing the lines and resources to be used in taking over NIMH.

Also included in that program were the infiltration of the Public Health Service, the Food and Drug Administration, and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

"Anti-Cult" Groups

The Los Angeles-seized documents set out a variety of actions instituted by the defendants and their organization against individuals and groups engaged in so-called "anticult" activities. In February 1977, Mane Kember promulgated Guardian Program Order 1017, entitled "ARM (Anti-Religion Movement) Clean Sweep" (Document No. 13724), which had been approved by defendant Budlong. That Guar-

dian Order called for the placement of "covert agents" for "data collection lines" with anti-cult groups. (Id. at 1.)

B. Law Firms

As part of their criminal activities the defendants actively encouraged burglaries and thefts of documents from private law firms in Washington, D.C., and Los Angeles, California, that represented private organizations sued by Scientology, including the law firm of Arent, Fox, Kintner, Plotkin and Kahn, in D.C.

At least three burglaries were committed during the early months of 1976 at the law offices of Arent, Fox, Kintner, Plotkin and Kahn, who then represented the St. Petersburg Times in a Scientology-initiated law suit. Defendants Kemmer and Buclong were regularly kept informed of the results. In February and March 1976 three entries were made into the office of Jack Bray and his secretary at the above-mentioned law firm, the first one by Richard Kimmel, the acting Assistant Guardian for Information in the District of Columbia, and the second one by Kimmel and Michael Meisner. On each occasion, documents outlining the law firm's strategy in defending the law suit brought against the St. Petersburg Times were taken. See Exhibit No. 31 hereto, a telex from defendant Luke Snider to the World-Wide Guardian's Office, dated 13 February 1976, setting out information obtained by Kimmel from Mr. Bray's office.

C. Private Individuals And Public Officials

The defendants directed and encouraged a number of covert operations against private individuals and public officials to destroy and discredit these persons because they had either attempted to exercise their First Amendment rights by criticizing Scientology or by attempting to carry out their duties as public officials.

Paulette Cooper

As early as February 29, 1972, defendant Kember had written the DGIUS (then Terry Milner) directing that he find out information about Paulette Cooper so that she could be "handled" (Exh. No. 32 hereto). Paulette Cooper is the author of The Scandal of Scientology, a work highly critical of Scientology. Kember's interest in handling Cooper continued, and her loyal workers in the United States carried out incredible schemes pursuant to Kember's directive.^{6/} In March 1976, Mo Budlong's deputy at World-Wide asked for details on an Operation Dynamite to be carried out against Paulette Cooper. The operation was ^{W/NT 6/27/76?} delegated to the Northeast Information Bureau Secretary, with the directive to Report to W.W." [Exh. No. 33, DGIWW log book pp. 72 and 73.] Also in 1976, the highest ranking Scientologists in the United States, including at least six of the co-defendants (Heldt, Snider, Weigand, Willardson, Herrmann, and Raymond), designed a series of plans in furtherance of the directives of co-defendants Kember and Budlong, which had as their goal Paulette Cooper's imprisonment or commitment to a mental institution.

In the Spring of 1976 six separate schemes were devised with the express purpose

"To get P.C. (Paulette Cooper) incarcerated in a mental institution or jail, or at least to hit her so hard that she drops her attacks."

(See Operation Freakout dated 1 April 1976, Exhibit No. 34 hereto; see also Exhibit No. 35.) Their stated purpose was "[t]o remove PC [Paulette Cooper] from her position of Power so that she cannot attack the C[hurch] of S[ci]entology]. The six separate schemes

6/ In addition to Kember's specific directive that Cooper be "handled," Mo Budlong and other World-Wide supervisors were under standing orders to see to it that all attacks on Scientology occurring anywhere in the world were "reported and handled properly, or both CSG [Mary Sue Hubbard] and I will have your heads for breakfast." Love Jane. Order of Jane Kember (contained in Information Bureau hat rack, volume I Exh. No. 37 hereto (emphasis added)).

were jointly entitled "Operation Freakout." In its initial form Operation Freakout had three different plans. The first required a woman to imitate Paulette Cooper's voice and make telephone threats to Arab Consulates in New York. The second scheme involved mailing a threatening letter to an Arab Consulate in such a fashion that it would appear to have been done by Paulette Cooper. Finally, a Scientology field staff member was to impersonate Paulette Cooper at a laundry and threaten the President and then Secretary of State Henry Kissinger. A second Scientologist would thereafter advise the FBI of the threat.

Two additional plans to Operation Freakout were added on April 13, 1976. The fourth plan called for Scientology field staff members who had ingratiated themselves with Cooper to gather information from Cooper so Scientology could assess the success of the first three plans. The fifth plan was for a Scientologist to warn an Arab Consulate by telephone that Paulette Cooper had been talking about bombing them.

The sixth and final part of Operation Freakout called for Scientologists to obtain Paulette Cooper's fingerprints on a blank piece of paper, type a threatening letter to Kissinger on that paper, and mail it.

77 The sixth plan bears a distinct resemblance to a scheme of Scientologists in 1972 and 1973 against Paulette Cooper. In 1972 Scientologists obtained Paulette Cooper's fingerprints on a blank piece of paper, typed two bomb threat letters on that, and another piece of paper, sent the threats to Scientology offices in New York, and then advised the FBI that they had received the threats and that they may have come from Cooper. Paulette Cooper was indicted in the Southern District of New York in 1973 for making these threats. An order Nolle Prosequi was filed on that indictment in 1975. As Bruce Raymond/Randy Windmert noted in his April 13, 1976 "CSW" to Weigand, which Weigand approved, the sixth plan of Operation Freakout was likely to prove effective since the same kind of scheme against Cooper had worked in the past.

Attached is approved Operation Freakout. This additional channel [the sixth plan] should really have been put away. Worked with all the other channels. The F.B.I. already think she really did the bomb threats on the C of S [Church of Scientology].

(Document No. 11423).

On March 31, 1976, defendant Kember telexed Henning Feldt concerning Ms. Cooper:

PC [Paulette Cooper] is still resisting paying the money but the judgment stands in PT [present time] . . . [3/] Have her lawyer contacted and also arrange for PC to get the data that we can wait for her to turn up publicly so we can slap the writs on her. If you want legal docs. from her we will provide. Then if she still declines to come we slap the writs on her before she reaches CW [Clearwater] as we don't want to be seen publically [sic] being brutal to such a pathetic victim from a concentration camp.

GW Log, p. 131 (Exh. No. 36 hereto.)

Gabriel Cazares

When Scientology first decided to set up a base in Clearwater, Florida, in late 1975, it did so using the cover name of "United Churches of Florida" (UCF) with no outward connection to Scientology. Gabriel Cazares, who was Clearwater's Mayor, campaigned for the disclosure of the true purposes of the UCF. When UCF's connections to Scientology were uncovered, Mayor Cazares became highly critical of Scientology. Because of his criticism, Mayor Cazares was targeted by the Guardian's Office and its Information Bureau and covert operations designed to remove him from office were ordered.

To that end, in early March 1976, co-defendant Hermann notified co-defendant Snider that Mayor Cazares was about to attend a Mayor's Conference in Washington, D.C., on March 13-14, and that Assistant Guardian for Information in Clearwater, Joe Lima, was formulating a covert operation to claim that Mayor Cazares had a mistress. (Exhibit No. 38 hereto.) Shortly thereafter, Hermann

3/ Cooper has been sued by the Church of Scientology on numerous occasions and in many jurisdictions around the world. Since 1970 the Church of Scientology has filed six lawsuits in three foreign countries and numerous lawsuits in the United States against Cooper. As of December 1979, with the exception of three foreign lawsuits and a counterclaim in an American lawsuit, all of the actions had been dismissed.

ordered Mr. Meisner to carry out an operation on Mayor Cazares during his Washington trip -- that operation was to involve a fake hit-and-run accident. Sharon Thomas was to be the main participant in that operation. She was to meet Mayor Cazares, drive him around town, and at a predetermined location stage a hit-and-run accident with Mr. Meisner as the "victim."

On March 14, 1976, Thomas offered to show Mayor Cazares the town. During that drive, Thomas, who was driving, staged her fake hit-and-run accident in Rock Creek Park, hitting Michael Meisner. She drove on without reporting the accident to the police. Of course, Thomas knew that no harm had been caused to the "victim." (Exhibit No. 39 hereto). In a report dated March 15, 1976, to defendant Morris Budlong, Weigand apprised Budlong of the incident and discussed how Scientology could use that "fake" accident against Mayor Cazares and concluded that "I should think that the Mayor's political days are at an end." (Id. at 2.)

On June 6, 1976, Jane Kembe promulgated Guardian Program Order 398, entitled "Mayor Cazares Handling Project." Its purpose was "to remove Cazares from any position from which he can inhibit the expansion of Scientology" and called for, among other things: (1) carrying "out a covert campaign to create strife between Cazares and the City Commission"; and (2) placing a covert operative in his Congressional campaign organization, getting the operative "as highly placed as possible. Use this operative to collect data on planned activities and feed this to PR and Legal to carry out operations to hamper the effectiveness of the campaign" (Exhibit No. 40 hereto.) On November 3, 1976, unindicted co-conspirator Joe Lisa informed co-defendant Snider that Mayor Cazares had been defeated in the Congressional race as a result of the implementation of defendant Jane Kembe's Guardian Program Order 398, and the other Scientology actions which included "[p]hone calls . . . spreading rumors inside his camp, contributing

to disorganization in his campaign" (Document No. 1491.)

Celebrities

On January 4, 1976, defendant Jane Kember issued Guardian Order 1361-3 which called for the theft of Los Angeles IRS Intelligence files on "celebrities, politicians and big names." In complete disregard for the rights of these individuals, Jane Kember directed that the stolen information be published. (Document No. 11513.) In fact IRS files on former California Governor Brown, current California Governor Edmund Brown, Jr., Los Angeles Mayor Tom Bradley and his wife, and Frank Sinatra were stolen from the IRS' Los Angeles offices and disclosed to the press. (Document Nos. 11514, 1546, and 1547.)

D. Newspapers

The defendants and their organization mounted a head-on assault upon newspapers that had been critical of Scientology. They infiltrated newspapers and, in other instances, without disclosing that they were associated with Scientology, planted stories of interest to their organization. For the sake of brevity, we will cite just one example.

In November 1975, defendant Willardson ordered Michael Meisner to send three District of Columbia covert agents to Clearwater. One of the operatives sent to Clearwater was June Byrne, the blown AMA

These are but four examples of the numerous operations conducted against private citizens and public officials. A review of the documents seized in Los Angeles shows the incredible scope of these operations.

In fact, in order to help determine what individuals and groups to develop operations against, the files of the World-Wide Information Bureau, which defense witness Sheila Chaleff so fondly referred to as "MC's Files," are divided into eight "enemy" classifications, depending upon the particular degree of "suppressiveness" which the Guardian's Office perceives in its "enemies." Among the eight classifications are "traitor," "enemy," and "international enemy." The latter category includes such "treacherous" groups as the European League for Human Rights, the World Council of Churches, the United Nations, and the World Federation for Mental Health. Exh. No. 41 hereto. *Exh. No. 41 hereto.*

agent. In Clearwater, Ms. Byrne infiltrated the Clearwater Sun and provided Scientology almost daily reports on the activities of that newspaper, all of which were forwarded to defendants Kember and Budlong (See e.g., Documents Nos. 17988, 17991, 17995, 17996, 18005 which cover less than a two-week period.) She remained as Scientology's covert operative at the Sun until late 1976 when she was withdrawn out of fear that her cover had been blown.

E. State and Local Government Agencies

Numerous state and local Government agencies throughout the United States were targeted for infiltration by the defendants and the Guardian's Office. These infiltrations and thefts were called for by two programs promulgated by Jane Kember -- Guardian Program Order 302, which was also approved by defendant Budlong, and Guardian Order 1080. Guardian Program 302, Government Exhibit 67 at trial, ordered the infiltration of all Governmental agencies that refused to acquiesce to Scientology's demand for access to their files.^{10/}

On March 4, 1974, defendant Jane Kember issued GC 1080, an umbrella program ordering the infiltration of the California Attorney General's Office and all local district attorney's offices in California. (Exhibit No. 2 hereto.) On January 11, 1976, a sub-project of GC 1080 regarding the Los Angeles Office of the California Attorney General was promulgated. It directed that that office be infiltrated "through any way or means and then locate and obtain full copies of any and all files on the C of S, C of S investigations, etc." (Document No. 1317 at 13-15.) On February 12,

10/ Thus, pursuant to GPgmO 302, Deac Finn, the Assistant Guardian for Information in New England (AGI NE), wrote on June 8, 1976, requesting Weigand's approval for Finn's project to infiltrate the Suffolk County District Attorney's Office (Document No. 1335, p. 2). See also Document No. 21703 entitled "Project Owl" which sets out co-defendant Hermann's plans for such infiltration in response to the planned investigation of the Church for criminal fraud and of one of its members for kidnapping.

1976, it was reported that keys to the Attorney General's office had been obtained. (Document No. 1313 at 2.) Co-defendant Weigand also outlined for the benefit of defendant Budlong the progress of GD 1080, appending excerpted stoler data prepared by defendant Raymond. (Document No. 1321; See also Document No. 1336 -- a similar letter from defendant Willardson to defendant Kember, routed through defendants Heldt, Weigand and Budlong.)

On August 10, 1976, compliance was reported to Guardian Program Order 302 as it pertained to the Los Angeles District Attorney's Office. (Document No. 149; Documents Nos. 11591-11595 are copies of documents stolen from that office.) On that same date, compliance was reported with Guardian Order 1080 and Guardian Program Order 302 as far as the Yolo County District Attorney's Office was concerned. (Document No. 813.)

F. Other Federal Government Agencies and the United Nations

Among other direct orders issued by Jane Kember calling for illegal operations against other Government agencies and international organizations, to be carried out by Mo Budlong and his Information Bureau, are the following:

1. Guardian Order 1344, issued October 10, 1974 (Exh. No. 43 hereto), called for penetration of and theft of documents from the 11th District Coast Guard Intelligence and the National Headquarters of Coast Guard Intelligence, Washington, D.C. The program was carried out by, inter alia, the placement of co-defendant Sharon Thomas as Scientology's cover operative at the Coast Guard (prior to her employment at the Department of Justice). Dike Snider makes the following cryptic notation on the cover sheet of the G.O.: "Jane also telexed and mentioned that the BI targets are to be done and not just left up in the air." (Exh. No. 43).

2. Guardian Programme Order 283, issued February 24, 1976

(Exh. No. 44 hereto), which was proposed by co-defendant Cindy Raymond, approved by Morris Bullong, and issued by Jane Kember, had the following over all "Plan: To penetrate the UN [United Nations] and establish lines for feedback data so that we can predict and handle anything that may stop the acceptance of our submissions to the U.N." Later documents indicate Scientology recruited an FSM to apply for a job as a security guard at the U.N.

3. Guardian Programme Order 407, issued June 9, 1976 (Exh. No. 45 hereto), subtitled "Off the Hook", and issued by Jane Kember two days before Meisner and Wolfe were confronted in this Court-house, called for getting "Scientology in all its aspects 'off the hook' with the IRS" The means to be used included "monitor IRS handling of audit on 1361 lines" and "ensure 1361 Collection Line keeps close watch on area of IRS concerned with LHM tax returns. . . ."

VI

Comparative Roles of These Defendants and
the Previously Convicted Co-Defendants

The defendant Jane Kember was, during the periods relevant to the charges of which she was convicted, the Guardian World-Wide of the Church of Scientology. Her principal role was to "protect" and "defend" Scientology from all persons and organizations, private and governmental, whom Scientology viewed or perceived as its enemies. As such -- after L. Ron Hubbard (the Founder and Commodore), and Mary Sue Hubbard (the Deputy Commodore, Controller, and Commodore Staff Guardian) -- she was superior in authority to everyone else within the Guardian's Office. By the defense's own witnesses this Court was told that the defendant Kember ruled with an iron hand the whole Guardian's Office network which stretched through dozens of countries in almost every continent in the world.

Prior to assuming her position as Guardian World-Wide in the late 1960s, the defendant Kember served as the Deputy Guardian for Intelligence (later renamed Information) World-Wide -- a position assumed about 1967 by her loyal and hard working deputy and now co-defendant -- Morris Budlong. Thus, both defendants Kember and Budlong are long-standing, committed and dedicated high officials of the Guardian's Office. It was unchallenged at their trial that these two defendants took a leading role in every endeavor of the Guardian's Office. They drafted, reviewed and issued every order which commanded the commission of criminal acts. They demanded total and absolute loyalty and obedience from their subordinates, awarded them when they obtained it, punished them when they did not. They demanded to be kept informed of every move made by their underlings through an elaborate system of weekly reports and emergency telex messages when the need arose.

VII

Conclusion

The above recitation of evidence establishes beyond dispute the massive and insidious nature of the crimes these two defendants engaged in over the years. It also puts to rest their protestation, articulated by Mary Sue Hubbard from the witness stand, that they only burglarized Government offices and stole Government documents because of some imaginary Governmental harassment campaign against them.

The brazen and persistent burglaries and thefts directed against the United States Government were but one minor aspect of the defendants' wanton assault upon the laws of this country. The well-orchestrated campaign to thwart the federal Grand Jury investigation by destroying evidence, giving false evidence in response to a grand jury subpoena, harboring a fugitive, kidnapping a crucial witness, preparing an elaborate cover-up story, and assisting in the giving of false statements under oath shows the contempt which these defendants had for the judicial system of this country. Their total disregard for the laws is further made clear by the criminal campaigns of villification, burglaries and thefts which they carried out against private and public individuals and organizations, carefully documented in minute detail. One can only wonder about the crimes set forth in the documents secreted in their "Red Box" data. That these defendants were willing to frame their critics to the point of giving false testimony under oath against them, and having them arrested and indicted speaks legion for their disdain for the rule of law. Indeed, they arrogantly placed themselves above the law meting out their personal brand of punishment to those "guilty" of opposing their selfish aims.

The crimes committed by these defendants is of a breadth and scope previously unheard. No building, office, desk, or files was safe from their snooping and prying. No individual or organization was free from their despicable scheming and warped minds. The tools of their trade were miniature transmitters, lock picks, secret codes, forged credentials, and any other devices they found necessary to carry out their heinous schemes. It is interesting to note that the Founder of their organization, unindicted co-conspirator L. Ron Hubbard, wrote in his dictionary entitled "Modern Management Technology Defined" that truth is what is true for you," and "illegal" is that which is "contrary to statistics or policy" and not pursuant to Scientology's "approved program." Thus with the Founder-Commodore's blessings they could wantonly commit crimes as long as it was in the interest of Scientology.

These defendants rewarded criminal activities that ended in success and sternly rebuked those that failed. The standards of human conduct embodied in such practices represent no less than the absolute perversion of any known ethical value system. In view of this, it defies the imagination that these defendants have the unmitigated audacity to seek to defend their actions in the name of "religion." That these defendants now attempt to hide behind the sacred principles of freedom of religion, freedom of speech and the right to privacy -- which principles they repeatedly demonstrated a willingness to violate with impunity -- adds insult to the injuries which they have inflicted on every element of society.

These defendants, their co-conspirators, their organization, and any other individual or group that might consider committing similar crimes, must be given a clear and convincing message: criminal activities of the types engaged in here shall not be tolerated by our society.

Moreover, we submit that in imposing any sentence upon these two defendants, the Court should consider the deterrent effect which

a severe sentence will have upon others -- besides the defendant Jane Kember who apparently remains the Guardian World-Wide, all other members of the Guardian's Office, and L. Ron Hubbard himself, the ultimate responsible authority. It is clear from the press releases issued by Scientology following the jury's verdict, and their vicious actions against another member of this Court, that they have yet to learn the errors of their criminal ways.

The United States submits that the only appropriate punishment in this case, the only one that is in the best interest of justice and the public, is a substantial term of incarceration for each of the two defendants now before the Court.

Moreover, we submit that there is no reason whatsoever under 18 U.S. Code § 3148, why these two defendant should not be denied bail pending any appeal they wish to take. Both defendants are in this country solely for trial and the service of any sentence imposed by this Court, pursuant to an extradition order from the Government of the United Kingdom. Following the service of their sentences, they will return to the United Kingdom. They are not employed in the United States, and, indeed, in at least the case of defendant Kember cannot be so employed. Thus, the only questions which remain are, in the words of 18 U.S. Code § 3148, whether

[a] person . . . who has been convicted of an offense and . . . has filed an appeal . . . [presents] a risk of flight or danger . . . or if it appears that an appeal is frivolous or taken for delay. . . .

We submit that in the instant case, any appeal taken by these two defendants will be frivolous and taken only for the purpose of delaying the ultimate day of judgment. The only real issues raised by the defendants involved the challenge to the jurisdiction of this Court over the burglary charges, and whether they had standing to challenge the searches of the two Guardian's Office premises in Los Angeles, California. The Court of Appeals has already, for all

practical purposes, resolved against them the former issue. In
Re: United States v. Kemper (Mary Sue Hubbard, et al., appellants),
 D.C. Cir. Nos. 80-2329 to 80-2332 (decided November 24, 1980),
 slip op. at 11. As for the standing issue, it has been conclusively
 resolved against the defendants, as this Court pointed out, by the
 Supreme Court. Additionally, the defendants, international criminals,
 whose danger to the community the evidence overwhelmingly
 bears out, have been convicted of serious charges carrying severe
 penalties and now present a great risk of flight. Thus, we submit,
 defendants should be denied bail pending appeal.

Respectfully submitted,

Charles F. C. Ruff
 CHARLES F. C. RUFF
 United States Attorney

Raymond Bancroft
 RAYMOND BANCROFT
 Assistant United States Attorney

Ernest Hetherington
 ERNEST HETHERINGTON
 Assistant United States Attorney

Katherine Winfree
 KATHERINE WINFREE
 Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing Sentencing Memorandum has been mailed to F. Kenneth Mundy, Esquire, 1850 K Street, N.W., Washington, D.C. 20006 and John Shorter, Esquire, Mitchell, Shorter, & Gartrell, 508 Fifth Street, N.W., Washington, D.C., 20001, this 16th day of December, 1980.


RAYMOND S. BROUN
Assistant United States Attorney

LIEBENCE SPECIALIST TRAINING ROUTINE TR 1

Purpose: To train the student to give a false statement with good TR-1. To train the student to outflow false data effectively.

Position: Same as TR-1

Commands: Part 1 "Tell me a lie". Command given by coach. Part 2 interview type 2 WC by coach.

Training Stress: In Part 1 coach gives command, student originates a falsehood. Coach flunks for out TR 1 or TR 0. In Part 2 coach asks questions of the student on his background or a subject. Student gives untrue data of a plausible sort that the student backs up with further explanatory data upon the coach further questions. The coach flunks for out TR 0 and TR 1, and for student fumbling on question answers. The student should be coached on a gradient until he/she can lie easily.

Short examples:

Coach: Where do you come from?

Student: I come from the Housewives Committee on Drug Abuse.

Coach: But you said earlier that you were single.

Student: Well, actually I was married but am divorced. I have 2 kids in the suburbs where I am a housewife, in fact I'm a member of the P.T.A.

Coach: What town is it that you live in?

Student: West Brighton.

Coach: But there is no public school in West Brighton.

Student: I know. I send my children to school in Brighton, and that's where I'm a P.T.A. member.

Coach: Oh, and who is the Chairman there?

etc.

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

No. 958⁹3

BETWEEN:

CHURCH OF SCIENTOLOGY MISSION OF EDMONTON, CHURCH OF
SCIENTOLOGY MISSION OF CALGARY, AND CHURCH OF SCIENTOLOGY
MISSION OF OLD STRATHCONA,

Plaintiffs

- and -

EVELYN HAMDON, LES JACKMAN, LORNA LEVETT, BETTY MCCOY,
BRENDON MOORE, WILLIAM REID, NEOL TAYLOR, and DAVID
WALLACE,

Defendants

ORAL JUDGMENT

of The Honourable Mr. Justice Agrios

THE COURT:

I am cognizant of the well established rule that one must be extremely cautious in departing from the general rule that costs to be awarded to a successful litigant are to be taxed as between party and party on the basis of an authoritative and well recognized tariff.

Having reviewed the history of these proceedings, I am of the view that the case at bar is

the rare and exceptional case in which costs should be awarded on a solicitor/client basis rather than on a party/party basis.

Counsel for the Plaintiffs has referred to two recent decisions of our Court, firstly by Chief Justice Sinclair in McCarthy vs Board of Trustees of Calgary Roman Catholic Separate School District No. 1, and secondly by Mr. Justice Kirby, in Mobil Oil Canada v Canadian Superior Oil.

The general principles are recited in both decisions. Both of these cases went to trial and it was held that the difficulty and complexity of the proceedings is not of itself a reason for departing from the general rule. However, in the case at bar, the issue will never be tried. It is apparent that throughout the proceedings the Defendants and not the Plaintiffs were endeavouring to have the trial heard.

I need not repeat the entire and rather remarkable history of this case. The record submitted by counsel for the Defendants speaks for itself. The contempt of court, the failure to comply with innumerable court orders, the need to formally settle minutes of appeal; the entire conduct of the Plaintiffs is not one that should be countenanced by our courts.

In my view, the proceedings and the action of the Plaintiffs amounted to a clear abuse of process and accordingly, I award costs on a solicitor/client basis to the Defendants in the sum of \$60,500 plus additional costs of this Applicant to be calculated in the same fashion as

- 3 -

the prior account submitted by the Defendants' solicitors to their clients.

Counsel for the Plaintiffs in a very persuasive manner suggested it would be more appropriate to award cost on a party/party basis using a multiple of column five of schedule C of our Rules of Court. I can not, with respect, agree with this submission.

I did suggest that on the basis on a number of Ontario cases set out in the Defendants' counsels' brief, and particularly as noted in the case of McGee vs the Ottawa Separate School Board, that there may be a distinction as to solicitor/client costs where there is evidence that they are being paid by a third party. It is not clear to me that such a distinction is appropriate in Alberta, however, counsel for the Plaintiff indicated in his view any such distinction would not apply in this case.

DELIVERED at Edmonton, Alberta,
the 6th day of October, A.D. 1980.

Mr. D.A. McGillivray
For the Plaintiffs,

Mr. C.D. Evans
Mr. K.E. Staroszik, and
Mr. H. Joffe
For the Defendants.

D. Johnson.
kw/2

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT
OF FLORIDA
TAMPA DIVISION

CHURCH OF SCIENTOLOGY OF
CALIFORNIA,

Plaintiff,

vs.

GABRIEL CAZARES,

Defendant.

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Case No. 76-86 Civ. T-K

FILED
TAMPA, FLA

MAR 19 1979

ORDER

WESLEY R. THIES
CLERK

Order granting defendant's motion for summary judgment was entered herein August 15, 1978, notice of appeal from judgment thereon was filed September 13, 1978.

The Court received and considered memoranda on defendant's application for the award of attorney fees, and on October 20, 1978, entered an order which allowed attorney fees to defendant and directed the parties to submit affidavits or other evidence as to the amount thereof, calling attention to the case of Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974).

The parties stipulated for retention of the record on appeal in the District Court for use in preparing appellate briefs and the Court entered an order directing that that be done.

On March 14, 1979, the Court conducted a hearing as to the amount of attorney fees to be allowed. The proceedings were reported and are available for transcription if required.

At hearing the Court considered and made findings with regard to each of the criteria suggested in Johnson, supra. For the reasons given at hearing and as indicated thereat, the Court found and finds that an award of \$36,021.75 is fair and reasonable, and should be paid by plaintiff to defendant

for the benefit of counsel for defendant for their services herein.

At hearing counsel for plaintiff indicated their desire to appeal the award of attorney fees and the amount fixed for the same, together with the matter for which notice of appeal has already been filed and moved for supersedeas bond.

Upon consideration, the Court fixed supersedeas bond in the sum of \$38,000 to be secured by corporate surety or by the deposit of cash or negotiable securities in form to be approved by the Clerk of the Court, and allowed 10 days for the posting of same.

In the event notice of appeal is filed as to the supplemental action herein, the Clerk of the Court is directed to include any transcript of the proceedings on March 14, 1979 filed herein, together with a copy of this order.

In view of the provisions of this order and of the matters and facts herein set out, the stay in transmittal of record on appeal heretofore ordered is no longer necessary, and the Clerk is directed to forward the complete record as soon as possible.

IT IS SO ORDERED at Tampa, Florida this 19 day of March, 1979.


BEN KRENTZMAN
UNITED STATES DISTRICT JUDGE

The first question that must be decided is whether this standard can be applied to the entire pleadings herein, or whether it may apply only to the 1983 allegations. The terms of the statute quoted above would not preclude an award for the entire case, and at least one court has found that the provision applies to the entire case where plaintiff joins claims some of which qualify for fees under 42 U.S.C. 1988, and which ordinarily would be tried in one proceeding. Southeast Legal Defense Group v. Adams, 436 F.Supp. 891, 894 (D.Ore.1977). The Court concludes that attorneys' fees may be awarded for the entire case, if otherwise appropriate.

The Court proceeds to the question whether plaintiff's claim was "frivolous, unreasonable, or groundless." This case arose under unusual circumstances. The Fort Harrison Hotel in Clearwater, Florida, was acquired in October 1975 by Southern Land and Development and Leasing Corp., about which little was known. Personnel of the corporation asserted that United Churches of Florida, Inc., a multi-denominational organization, would use the hotel. When it was learned finally that plaintiff Church of Scientology would in fact be the principal user of the hotel, defendant Gabriel Cazares, then Mayor of Clearwater, criticized plaintiff's activities. Such criticism, and subsequent actions taken to initiate investigations of plaintiff's activities, formed the basis of plaintiff's complaint.

The Court believes that said complaint was frivolous, unreasonable, and groundless. The groundlessness of plaintiff's complaint is demonstrated by the lack of evidentiary support for plaintiff's claims and the circumstances in which they arose. The statements and actions complained of took

place at a time when an organization about which little was known was seeking to acquire, and in fact acquiring, a major city landmark, and doing so in a manner that aroused a general public interest. In the public debate over the propriety of plaintiff's actions, and their potential effect, plaintiff saw fit to initiate this action. The record now reveals that there was no basis for this action, but it was initiated nevertheless in an apparent effort to influence the source of criticism rather than respond to the criticism in debate. Plaintiff admitted to being a "public figure" and had no cause to complain of mere public discussion of its activities. The Court finds that the suit was frivolous and groundless, and that its initiation under the circumstances was unreasonable.

Much has been said by both plaintiff and defendant about the Church of Scientology's "fair game" policy, and material introduced into the record could support the conclusion that it is plaintiff's policy to be the sole source of information about itself, and to attempt to quell dissenting views offered by its opponents, who may be labeled "Suppressive Persons," by the harassing use of the legal process. The Court makes no findings in this regard, as it is sufficient to hold that plaintiff's complaint was unreasonable, frivolous and groundless.

The Court is not given pause by the fact that plaintiff sought to voluntarily dismiss the complaint and that defendant opposed the motion. The dismissal sought was without prejudice, and the action could have been initiated at a later time had the Court granted the motion. The Court believes that defendant was entitled to pursue the matter to his vindication, as he did.

In accordance with the foregoing, the Court concludes that an award of attorneys' fees as part of the costs is appropriate. Defendant is directed to submit within ten (10) days affidavits or other evidence it wishes the Court to consider in determining the amount of fees to be awarded. Plaintiff shall have ten (10) days thereafter to make whatever objections it wishes to make. The attention of the parties is directed to Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-719 (5th Cir.1974).

The Court also has for consideration the motion for substitution of counsel for plaintiff. It appears that plaintiff has consented, and the Court is of the opinion that the motion should be, and it is hereby, granted.

In view of the Court's disposition of the above, defendant's motion to strike affidavit is denied as moot.

IT IS SO ORDERED at Tampa, Florida this 20 day of October, 1976.


BEN KRENTZMAN
UNITED STATES DISTRICT JUDGE

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INT HATTING:

THE STRIKE

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A strike is the action of gathering information on a covert basis. It is performed by one or more agents (persons doing the strike), who are intentionally aiming at a target (the desired info, or the person who has the target info, etc.).

It is assumed that the individual is hatted as an INT agent.

The strike is done in 12 steps, and each step follows consecutively (thus, step 2 should not be begun until step 1 is completed, and any new observation pertaining to an earlier step during the doingness of a latter step requires re-evaluation of the interim steps and verification of all the data acquired in the process).

The amount of time spent on a step and the amount of info needed for a respective step to be completed depends upon the target. The objective is to get all of the target info, by whatever means is necessary. For example, if the target is well-known and readily accessible to the agent(s), the strike may be achieved very quickly. On the other hand, if the agent(s) knows very little about the target, has no current access to the target, and the target is a large quantity of data, it may take extensive research, planning, and on-target observation to begin the actual strike.

The quantity of knowledge needed to complete each step is relative to the circumstances of the target.

THE STEPS OF STRIKING

- 1) Receive the assignment to strike. This usually comes in the form of an order from the agent's senior. The senior may either officially order or unofficially suggest the strike, either way, the idea is given to the agent that the info must be covertly gathered from some source.
- 2) Take ownership of the job. Here the individual determines that he is going to be the one to do the strike.
- 3) Identify the target. This may be knowing the name of a person or group on whom info must be covertly gathered, or it may be knowing the specific location of the place of wanted data, or simply being told to "see what they are up to." Either way, the purpose here is to have a starting basis for the strike.
- 4) Gather info on the target area (the location of the target) for the purpose of striking. This includes any info that would be pertinent to striking. Info is pertinent to striking if it helps the agent to locate (pin-point) the specific target, gain access to the target area and the target, learn the routines of the target area, or anything else that would help to put the agent in control of the target during the strike itself.

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5) Determine the most optimum means available for gaining access to the target area, on the basis of the info now known about it. This includes having a cover.

A cover is the pretense the agent assumes to make the strike possible. It includes anything that protects the agent from exposure as the agent of the strike (eg, assuming the cover of a newspaper man who wants to write an article on Scientology, with the objective of having the target group provide the agent with info on its activities as regards Scientology, but not know that this info will be used by Scientology itself). The most optimum cover is one that excludes the agent from any suspicion by the target. In some instances this would include wearing squeaky shoes, and carrying a large purse or attache at all times so that the one time the agent is carrying target info in the purse or attache, he is not questioned about its contents.

6) Gain access to the target area. This may include obtaining full-time employment from the target if the target is an organization, or simply contacting a person on a friendly basis so that the agent can gain access to personal files kept at home, or any other means that provides access to the target and a timespan of access to the target that will allow the agent to gather all of the info that is wanted.

It is possible that the access to the data will require repeated strikes — and thus, long-term procedures (eg, full-time employment would allow long-term procedures and repeated strikes if the target were an organization).

This step may also be called penetration.

7) Directly observe the target area for verification of the knowledge gained in the preceding steps and continue to gather new data that would be pertinent to striking. This includes determining the actual security measures used by the target area to keep the target safe. (eg, guards making security rounds, locked cabinets, maintenance personnel after working hours, closed circuit TV cameras, alarm systems, etc).

Three tools that are available to the agent (and have been tested and proved valuable in actual strike activity that required very strict security) include:

#1 - SECURITY RULE OF THREE: If the agent observes an activity in the target area occurring three separate times under identical or similar conditions within a given period of time (usually one week), he can use these observations in planning his striking activity.

One always observes for current and usual (predictable) activities in the target area, and accessible exits from the target area for "quick-got-away."

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72 - SECURITY RADIUS: a distance around the target that can be postulated as creating a safe condition for strike activity. The radius may be used to listen for persons coming near the target area during strike-preparation and actual strike activity. (eg, if the strike requires that no one know that the agent has been in the target area, the agent should be able to hear someone enter his security radius and quickly leave the target area without being seen or heard by the intruder and without leaving evidence of his presence).

73 - If the target is extensive written material, it may be most optimum to have a separate location from the target area for reading and xeroxing or transcribing the data — this is called a SAFE READING PLACE. If this is needed for strike activity, it should be determined during step 7 of striking procedures.

The final aspect of step 7 is evaluation of all data obtained upon direct observation of the target area and re-evaluation of the data learned in the preceding six steps in light of the direct observation data.

8) Determine how to safely get the target information from the target area to the person who wants the info. (This would include making sure that the agent's cover is adequately planned (eg, the big purse, etc.))

9) Plan the actions, step by step, that will be necessary in doing the strike. For instance, it may be found that the most optimum time to strike is between 12:30 PM and 12:55 PM. Thus the agent would plan to arrive at the target area at 12:31 PM; if the target area is safe (no persons present), he would then proceed to perform the strike, always listening to his security radius for intruders; he would proceed with operations until 12:50 PM, making sure that he is out of the target area by 12:52 PM. This plan might include hitting the target, getting the info xeroxed in the safe reading place, and returning the target info to its original location by 12:55 PM.

This step includes preparation for any unusual circumstances that might arise and how they would best be handled. For instance, if someone entered the security radius of the above situation at 12:40 PM, would the agent leave the area immediately or wait for the person to leave the security radius?

The purpose of step 9 is to make sure that the agent has enough knowledge to perform the strike safely, accurately, and thoroughly.

10) On the basis of the preceding steps, begin either a pretend dry-run of the strike (to check for unknowns and remedy them immediately) or do the actual strike, depending on the circumstances of the entire situation.

The following is an example. It was actually done by an agent in both dry-run and actual strike procedures at a national organization's headquarters. The agent was a full-time employee of the group, and worked on a different floor from the one where the target info was located. The agent had to maintain a totally safe operating condition during strike procedures (ie, it was predetermined that anyone within the security radius was dangerous to the agent and warranted stopping strike activity immediately, and that the less time

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time spent in the target area the more safe the operating condition):

- a - agent went to the target area — no one else was present — proceeded.
- b - agent found target file.
- c - agent stood near target file — the label appeared to indicate this file was the target. Agent determined a safe radius for future activity and listened for the usual sounds — a through c were safe, proceeded.
- d - agent checked file contents, always listening to the security radius. Still safe, so agent proceeded.
- e - file contents appeared to be wanted, could agent pull them to take to the safe reading place? Yes. Agent proceeded.
- f - Agent took file to safe reading place, going by the (predetermined) quickest route, agent observed security radius at all times.
- g - target data was exactly what was wanted. Agent xeroxed data and then hid xeroxes in a place that was safe while the agent was returning the target materials. This included the possibility that the agent would not be able to return to the hiding place for quite a while and a place that would not indicate that the xeroxes belonged to the agent if another person found them.
- h - agent returned to target area, repeating steps a through c, then put file back exactly where it was found (continually observing the security radius).
- i - agent took target data (xeroxes) out of the building without being suspected. This required wearing a cape under which the xeroxed data was hidden in a large purse and being friendly with the night guard.
- j - Agent took evidence and written report of all strike-related activities to agent's senior within 3 hours after strike occurred.

- 11) Get info to the person who wants it, by the safest and quickest route.
- 12) Report all strike-related actions in a written report.

It should be noted here that written progress reports (most optimum) and verbal reports may be given to the agent's senior at any time during the strike procedures. Any report should be written with the objective of informing the senior of the progress done to date and/or reporting any change in agent-like or strike-related activities. A report never serves the purpose of asking the agent's senior to handle the agent's problems.

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SUMMARY AND COMMENTS

As stressed before, the individual circumstances of the target and the agent determine the extensiveness of the work done in each of the 12 steps and the time it takes to achieve the strike.

If the agent is required to return to the target area on several occasions to get the target info, he should always be observant of new developments and handle each new development as it arises. This may mean simply making a small adjustment in the plan of striking or it may mean a total halt of all agent-like activity until the agent is safely able to continue with the preparation steps and doingness of the strike. (As when the target begins to suspect the agent's activities and tries to protect itself from a strike).

Certain striking activities require more security than others. The agent must determine the degree of security he must maintain, as it is relative to his individual situation, in order to achieve the strike.

Whether a strike takes 15 minutes to prepare for or 15 months, the key to the whole game is observing what is really there, not what you were told should be there; and working on the basis of what you know.

END OF REPORT

Kathy Gregg
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DECLARATION OF JOSEPH A. YANNY

I, JOSEPH A. YANNY, having personal knowledge of the following hereby declare and state that:

1. I am an attorney at law, duly admitted to practice before the United States Supreme Court, the Supreme Courts of the States of California and Illinois, and numerous other federal courts and administrative agencies. This is the tenth year of my admission to practice law. I am the sole shareholder of the entity known as Joseph A. Yanny, a Professional Corporation, which does business as Herzig & Yanny.

2. I have from time to time, represented the Plaintiffs herein (hereinafter collectively referred to as the "Cult") over the course of several years. My Corporation and I are Defendants herein, along with several of my associates. The Cult asks for equity, but their hands are unclean.

3. One of the basic beliefs of the Cult is the much written about "FAIR GAME" policy which states that an "ENEMY" of Scientology:

May be deprived of property or injured
by any means by any Scientologist
without any discipline of the Scientologist.
May be tricked, sued or lied to
or destroyed.

A true and correct copy of which is submitted as exhibit A.

4. The Corollary to this "Fair Game" Doctrine is the "Religious Practice" set forth in the Cults' "Scripture" known

1 as the "1 0 checksheet" (a true and correct copy which is
2 submitted as Exhibit 1) and provides at the page marked as 55:

3 The purpose of the suit is to harass and
4 discourage rather than to win. The law can
5 be used very easily to harass and enough
6 harassment on somebody who is simply on the
7 thin edge anyway, well knowing that he is not
8 authorized, will generally be sufficient to
9 cause his professional decease. If possible,
10 of course, ruin him utterly.

11 (emphasis added)

12 That is the purpose of this suit against myself, my firm and my
13 associates. The Cult is so anxious to abuse process that it
14 claims it needs expedited discovery, a special dispensation from
15 the Rules of Discovery intended to allow a Defendant sufficient
16 time to secure and brief counsel.

17 5. The "Fair Game" doctrine has been discussed at length
18 in numerous litigations including the one entitled U.S. v.
19 Hubbard reported at 474 F. 2d 64 (D.C. D.C. 1979), its pre-
20 decessors and its progeny. See e.g., 572 F. 2d 321, 591 F. 2d
21 533, 650 F. 2d 293, 668 F. 2d 1238, 436 F. Supp. 689, 529 F.
22 Supp. 945. In that case, top executives of the Cult were
23 eventually convicted of crimes including theft of U.S.
24 Government documents, obstruction of justice, and other "fair
25 game" related activities against the Government of the U.S., a
26 known "ENEMY" of the Cult. See Exhibit 25 and 27 submitted
27 herewith i.e. Sentencing Memorandum and Stipulation of Evidence.
28

1 6. ate as 1984, Judge Breckenridge of this Honorable
2 Court, wrote an opinion finding that the infamous "fair game"
3 doctrine was still in full force and effect, barring equitable
4 relief against the defendant in that case, Mr. Gerald Armstrong,
5 who had actually stolen documents from the Cult. A true and
6 correct copy of the decision in the case of Hubbard v. Armstrong
7 is submitted herewith as Exhibit B.

8 As Judge Breckenridge stated at page 8 of that opinion:

9 In 1970 a police agency of the French Govern-
10 ment conducted an investigation into Scien-
11 tology and concluded, "this sect, under the
12 pretext of 'freeing humans' is nothing in
13 reality but a vast enterprise to extract the
14 maximum amount of money from its adepts by
15 (use of) pseudo-scientific theories, by (use
16 of) 'auditions' and 'stage settings' (lit. to
17 create a theatrical scene) pushed to extremes
18 (a machine to detect lies, its own particular
19 phraseology . . .), to estrange adepts from
20 their families and to exercise a kind of
21 blackmail against persons who do not wish to
22 continue with this sect."2 From the evidence
23 presented to this court in 1984, at the very
24 least, similar conclusions can be drawn. In
25 addition to violating and abusing its own
26 members civil rights, the organization over
27 the years with its "Fair Game" doctrine has
28 harassed and abused those persons not in the

10.

1 Church whom it perceives as enemies. The
2 organization clearly is schizophrenic and
3 paranoid, and this bizarre combination seems
4 to be a reflection of its founder LRR.

5 Judicial Notice thereof is requested.

6 7. I would call the Court's attention to the doctrine of
7 collateral estoppel, best stated by the U.S. Supreme Court in
8 the case of University of Illinois v. Blonder-Tongue Labora-
9 tories, 402 U.S. 313, 28 L. Ed. 2d 788, 91 S. Ct. 1434 (1971).

10 I could cite California and Federal authority for the proposi-
11 tion that once a policy such as "Fair Game" is established, the
12 burden shifts to the Cult to establish "a change in circum-
13 stance." However, I do not have the research on the subject nor
14 my notes and copies of cases thereto (they are locked in this
15 Court's jury room.)

16 8. The Court should also see the case of Allard v. Church
17 of Scientology of California, 129 Cal. Rptr. 797 (2nd Dist.
18 1976), submitted as exhibit 5 herewith, and the full text of the
19 Stipulation of Evidence in the case of United States v. Hubbard,
20 which sets fourth the various "Religious" practices of the Cult
21 as including:

22 III. The conspiracy to intercept oral commu-
23 nications, Burglarize and steal and the
24 substantive acts committed pursuant thereto.

25 IV. The conspiracy to Obstruct Justice, to
26 obstruct an investigation, to harbor a
27 fugitive and to make false declarations
28 before the grand jury.

100

1 9. Submitted herewith a collection of exhibits which
2 consist mostly of pleadings, evidence, exhibits, and judges'
3 opinions in legal cases, with the only exceptions being No. 15,
4 a magazine article, and No. 12, complaints filed with the
5 Massachusetts Board of Bar Oversees by the Cult.

6 These materials are offered to show the chronic nation-
7 wide contempt which the Cult has shown for all judicial process.
8 These materials clearly demonstrate that the Cult, according to
9 written policy, will use any means legal or illegal to subvert
10 and frustrate judicial process against them, and will willingly
11 and knowingly abuse judicial process in order to attack per-
12 ceived "enemies". The victims of these attacks include lawyers,
13 judges, witnesses, and party defendants.

14 10. The following is a brief characterization of each of
15 the included documents. True and correct copies of the exhibits
16 are submitted herewith to wit:

17 Exhibit 1. Purpose of a Lawsuit. This exhibit includes
18 two items. The first is a magazine article written by L. Ron
19 Hubbard, the founder of Scientology, describing how to use a
20 lawsuit to harass opponents (see page 55). The second is an
21 internal Scientology document, that was part of the court record
22 in United States v. Mary Sue Hubbard, Cr.No. 78-401 (D.Ct.,
23 D.C.).

24 It states that the object of litigation with the I.R.S. is
25 delay.

26 Exhibit 2. "Freedom of Speech Includes Freedom to Malign".
27 This document, written by Jane Kember, includes a blunt des-
28 cription of how knowingly frivolous lawsuits can be used to

1 drive publishers into submission. Kember states that since in
2 the U.S. a person who loses a lawsuit is not required to pay the
3 opponent's cost, frivolous suits are an effective means of
4 imposing unbearable financial burdens on publishers and thereby
5 suppressing publication of materials on Scientology.

6 Exhibit 3 - 9 Various cases which the Cult lost including
7 findings of frivolousness with the award of sanctions.

8 Exhibit 10. Readers Digest Case. The Cult attempted to
9 enjoin the publication of a Readers Digest article in Denmark.
10 The Court held that the suit was without merit and ordered the
11 Cult to pay the Readers Digest Dkr. 2000.

12 Exhibit 11. Lawsuits Against Attorneys Michael Flynn and
13 Thomas Hoffman. Attorneys Flynn and Hoffman represented plain-
14 tiffs who were suing the Cult. The Cult has sued the attorneys
15 and their employees. This exhibit includes the cover sheets of
16 the suits and two court orders dismissing the suits.

17 Exhibit 12. Frivolous Bar Complaints. The exhibit
18 includes cover sheets of frivolous bar complaints against
19 attorneys representing plaintiffs who are suing the Cult.

20 Exhibit 13. Church of Scientology v. Cooper. In this
21 opinion, Federal Judge Hauck describes an incident in which a
22 Cult member was found wandering around in a security area in the
23 Los Angeles Federal Courthouse.

24 Exhibit 14. Motion to Disqualify. Self-explanatory.

25 Exhibit 15. Article From "American Lawyer". Describes a
26 number of covert operations against judges who were sitting on
27 Cult cases.

28

1 Exhibit 16. Investigations of Judges. The three parts of
2 this exhibit describe Cult operations to investigate the per-
3 sonal backgrounds and families of judges deliberating in Scien-
4 tology cases. These exhibits are internal Cult documents seized
5 by the F.B.I. from Cult headquarters in 1977 and were part of
6 the court record in United States v. Mary Sue Hubbard, supra.

7 Exhibit 17. Affidavit Regarding Infiltration. This
8 affidavit of Dennis Quilligan describes the efforts of a Cult
9 lawyer to infiltrate the State's Attorneys office and his
10 successful infiltration of the lawfirm, representing Mayor
11 Cazares, who was then being sued by the Cult.

12 Exhibit 18. Unsigned Stipulation of Evidence. This
13 lengthy document was the agreed basis for the conviction of the
14 Church's top leaders in Federal Court in Washington, D.C. It
15 includes a variety of criminal actions committed by the Scien-
16 tologists, including obstruction of justice.

17 Exhibit 19. Instructions on How to Lie. An internal Cult
18 document containing instructions on how to lie effectively.

19 Exhibit 20. Instructions on How To Steal Documents. This
20 appalling document is self explanatory. It was seized in the
21 F.B.I. raid. The second part of the exhibit shows full know-
22 ledge by Cult officials of ongoing burglaries.

23 Exhibit 21. More Instructions. Self-explanatory.

24 Exhibit 22. "Bulldozer Leak". This document describes an
25 operation to frustrate service of legal process by fraudulent
26 means. This document was seized in the F.B.I. raid.
27
28

1 Exhibit 23. Project Quaker. This document describes an
2 operation to obstruct justice by concealing witnesses. Also
3 taken in the F.B.I. raid

4 Exhibit 24. Early Warning System. A scheme to frustrate
5 legal process by fraudulent and criminal means. This document
6 was also taken in the F.B.I. raid.

7 Exhibit 25. Scientology Memorandum. This is a lucid
8 description of the scope of criminal and tortious activities and
9 abuse of the judicial system by the Scientologists.

10 Exhibit 26. List of Scientology Lawsuits. This exhibit
11 is a partial list of lawsuits brought by the Cult, intended to
12 show the extreme litigiousness of the cult.

13 Exhibit 27. The Signed Stipulation referred to in
14 Exhibit 18.

15 11. I have personal knowledge of the fact that while the
16 Cult claims in the verified complaint, to be religious, this
17 Cult claims to be religious only within those jurisdictions
18 where it is expedient to be so, e.g. the U.S. where there is a
19 tax exempt status for such activities and a first amendment to
20 hide behind when tortious and criminal activity must be
21 defended. However, I have personal knowledge that in such
22 places as Israel and many parts of Latin America, where it is
23 not expedient to be a religious organization, (because of a
24 state religion and a prohibition against ownership of property
25 by Religious organizations, Respectively,) "The Cult" claims to
26 be a philosophical Society. I also have personal knowledge of
27 documents which can prove these facts, which documents are in
28 the possession of Thomas Small, Esq. of the firm of McDonald &

1 Halstead, and Cult member such as Alan Cartright and a young
2 lady named "Kirsten" (pronounced-Sher Ston).

3 12. The Court should also be aware of the verdict in two
4 recent cases, to wit:

5 1) Christofersin (Titchbourne) v. CSC,
6 Hubbard et al., Portland, Oregon decided in
7 1985 (Case citation in Court's Jury room) (in
8 which a jury awarded Mrs. Titchbourne \$39
9 million dollars as a result of the "Fair
10 Game" "Religious" practices directed at her);
11 and the case of 2) Wollersheim v. C.S.C. in
12 LA Superior Court before the Honorable Ronald
13 Swearingin (citation in Courts Jury Room) (in
14 which the jury awarded Mr. Wollersheim \$30
15 million as a result of the "Fair Game"
16 "Religious" Practices directed at him)

17 13. Since the outbreak of hostilities between the Aznarans
18 and the Cult, there is additional evidence of continued applica-
19 tion of the "Fair Game Doctrine" present in the instant case, to
20 wit:

21 1) Ms. Karen McRae, one of my alleged
22 co-conspirators herein, after having been
23 visited upon by various attorneys for the
24 Cult (including two phone calls from: Earle
25 Cooley, Esq. and one visit in Dallas, Texas,
26 by a female attorney from a D.C. firm repre-
27 senting the Cult), was severely beaten by two
28 unknown assailants in Dallas, Texas;

1 2) Rick Aznaran, while under surveillance
2 by agents of the Cult, was the object of a
3 hit and run accident in the State of Texas;
4 3) This past week, Ms. Wilske, my fiance,
5 was the object of an auto accident involving
6 collision of the front and the rear of her
7 vehicle, totally disabling it and injuring
8 her;
9 4) I, on Sunday June 26, 1988, at about
10 5:00 p.m. was stopped by no less than four
11 local police cars, in the City of Bellaire,
12 Ohio. The police called me by name and
13 informed me that they had information that I
14 was in possession of firearms and cocaine
15 (the very same allegations made by the Cult
16 in this case.) I was informed by the police
17 that I had two options i.e. to allow my car
18 to be searched or be arrested on the spot.
19 Needless to say, I permitted the car my
20 person and the person of my relative to be
21 searched. Nothing was found. The next day,
22 Monday the 27th of June, the occupants of two
23 out-of-state cars having Pennsylvania plates,
24 were questioned by local officials. The
25 occupants, stated that they had had me under
26 surveillance since Saturday, June 25, 1988
27 (before the search by the police), and that
28 they had been hired by a Washington D.C. firm

1 who represents the Cult) named Williams &
2 Connolly. A full report on this matter is now
3 in the hands of the FBI.

4 5) At a meeting held in the offices of
5 Howard Weitzman, on June 15, 1988, I was
6 informed by Mr. Weitzman, that this suit need
7 not be filed and "could be handled", if and
8 only if, the Aznaran suit would be made to go
9 away.

10 6) Since I stopped representing the Cult in
11 or about November or 1987, my offices have
12 been broken into on at least three occasions
13 (once with a crow bar), and numerous docu-
14 ments are now missing relating to the cult.
15 These break-ins were conducted a number of
16 months after Mr. Moxon (an unindicted co-
17 conspirator in the United States v. Hubbard
18 case) had "cased the Joint" under the guise
19 of wanting to rent space from me;
20

21 Now as to the players:

22 14. As to Mr. Vallier, my former associate, an officer of
23 my professional Corporation, and former employee, I state as
24 follows:

25 a) Mr. Vallier, quit my employment in the month of
26 February on a few days notice;

27 b) Mr. Vallier is a well known seller of large quantities
28 of cocaine and has been so for years;

1 c) I am informed by Mr. Vallier that he was first busted
2 and convicted on drug charges at age 17. I am informed that
3 through the aid of his father (a local attorney), he had the
4 matter expunged from his record. Mr. Vallier expressed concern
5 to me during 1986 that he was being blackmailed by the Cult. He
6 stated that the Cult had confronted him with the fact of his
7 prior drug conviction as a minor, a fact that was not public
8 record;

9 d) I have personally seen Mr. Vallier in possession of
10 large quantities of cocaine which he stated was intended for
11 resale; and he also stated that selling drugs was his way of
12 supporting his own habit and supplemented his income;

13 e) Mr. Vallier has stated that he had been a supplier of
14 cocaine to other known enemies of the Cult while he was in law
15 school;

16 f) Mr. Vallier stated before departing my good offices
17 that he had been an "operative" for the Cult in obtaining
18 information from inside the offices of Charles O'Reilly, through
19 an old "cuddle" (as he called her), whom I recall he identified
20 as "Mary", stating that she was one of the O'Reilly attorneys'
21 secretary. Mr. Vallier further stated that he supplied "Mary"
22 with cocaine. With respect to the O'Reilly operation,
23 Mr. Vallier stated to me that he was "Run" by Warren McShane;

24 g) There currently exists a dispute between Mr. Vallier
25 and myself as to fees earned. It took Mr. Vallier three times
26 to pass the California Bar Exam.

27 15. Ms. Peti:
28

1 a) Worked for me from April 1987, (the time when the
2 Aznarans made an escape from a secret cult prison location in
3 the desert known as "Happy Valley") until shortly before, the
4 institution of this action. She was emotionally distraught, a
5 heavy substance abuser, and possessed of an extreme weight
6 problem. She was also a lover of Thomas Vallier with whom she
7 spent the night during a visit to Oregon which we took in the
8 Summer of 1987.

9 b) I am within the last week, informed by a Mr. Waysman
10 that she was a former secretary of his and a key witness in a
11 disciplinary proceeding which resulted in the 1986 published
12 case of Waysman v. State Bar of California, 224 Cal. Rptr. 101
13 (Cal.1986), involving allegations of drinking and drug abuse.
14 I am informed by Mr. Waysman, that Ms. Peti, worked for him only
15 three weeks before running off with money and testifying to
16 things she could have had no knowledge of.

17 c) I now believe Ms. Peti, was recruited to infiltrate my
18 organization as a plant at about the time of the criminal
19 incarceration of Vicki Aznaran, in early 1987, by the Cult
20 because of Peti's peculiar experience as witness in the Waysman
21 case (see exhibits 17 & 20.)

22 d) Prior to departing my offices, Ms. Peti had numerous
23 financial misfortunes, was sued for divorce by her estranged
24 husband, (the law clerk referred to in the Waysman case), and
25 was heavily using alcohol and drugs (which she stated she
26 obtained from Mr. Vallier, who she was regularly seeing after he
27 left my employment).

28

1 16. As to Mr. Warren McShane, I state that he has informed
2 me that he was a high ranking operative in the "G.O.", during
3 the days which saw the events which resulted in the United
4 States v. Hubbard convictions. His tendencies towards criminal
5 behavior and disregard for the law were the subject of many
6 complaints by me to Mrs. Vicki Aznaran prior to her incarceration
7 in the desert by the Cult. It was this tendency to criminality
8 that resulted in his removal from his post and apparently
9 gave rise to his current grudge match against me. I was
10 informed by Mr. McShane that he was running plants in the inner
11 circle of one David Mayo and that he was "culling" confidential
12 confessional folders of Cult members (known as "P.C. folders")
13 to gain information that would be used against them as blackmail
14 or for impeachment purposes. I personally observed this culling
15 and objected to it.

16 17. As to Mr. Moxon, I state that:

17 Prior to his completing law school, he was one of numerous
18 unindicted co-conspirators in the case of United States v.
19 Hubbard.

20 18. Mr. Cooley (who in his last two outings for the Cult
21 lost a \$39 million dollar verdict in Oregon and another \$30
22 million verdict in L.A.) has personally ordered the destruction
23 of evidence relating to Cult litigation in my presence. These
24 orders were given to Warren McShane and Mark "Marty" Rathburn.

25 19. I was hired by Mrs. Aznaran in 1984 to represent the
26 Cult in trade secret, copyright and trade mark litigation
27 matters.
28

1 20. I am informed and therefore believe, that sometime in
2 early 1987, Mrs. Aznaran was abducted and taken to a
3 "Jonestown-like" camp known as "Happy Valley". As far as I knew
4 she just disappeared. It was not until many months later that
5 Vicki, a personal friend, found the courage to initiate contact
6 with me.

7 21. Prior to speaking with Vicki, after her abduction, a
8 number of extremely troubling occurrences happened involving my
9 representation of the Cult; to wit:

10 a) Sometime in April or May of 1987 I was summoned
11 to a meeting on the 4th floor of the Cult headquarters in L.A.
12 and at that meeting were many high ranking officials of the Cult
13 including, Linda Hamel (director of Covert Intel operations),
14 "Marty" Mark Rathburn, and an indistinguished cast of others.
15 The subject matter of the meeting was to be "the Catholic
16 Conspiracy and Charles O'Reilly." At the meeting it was
17 explained that Catholics were enemies of the Cult and that
18 Charles O'Reilly was their best hit man. (O'Reilly had recently
19 obtained a \$30 million dollar verdict against the Cult in
20 Wollersheim and previously tried the Allard case). Mr. O'Reilly
21 (whom I have personally sued for the Cult, obtaining an
22 injunction against him in Federal Court), despite his human
23 tendencies, remains one of the few lawyers in this country with
24 the skill and courage to meet the Cult head on, beat it and not
25 sell out. Since he didn't have a price, it was explained by
26 Mr. Rathburn that he must be handled through blackmail. Three
27 private investigators were present at the meeting. I do not
28 remember their names. I and the others were told by "Marty"

1 Rathburn, at on the orders of David Miscavige (the successor
2 the L. Ron Hubbard as the head of the Cult), that the medical
3 records of O'Reilly were to stolen from the "Betty Ford Center"
4 and another location in Santa Barbara, to show that he was using
5 cocaine, discredit him, and possibly blackmail him into easing
6 off on his 30 million dollar verdict now on appeal. I objected
7 to this as illegal and an alternative plan was quickly arrived
8 at to "settle my nerves". Within days, I informed the Cults'
9 chief lawyer, John Peterson, that I wanted to substitute out of
10 the cases in which I represented the Cult. Shortly thereafter
11 Mr. Peterson died. I substituted out as quickly as possible
12 thereafter.

13 b) I also became aware of numerous "cullings" of P.C.
14 folders by Cult members. I was actually given P.C. folder data
15 to prepare for depositions of former members. Again I objected.
16 The confidential materials were put in "prep Packs". When I
17 objected to this practice, I was told by Mr. McShane and a
18 Mr. Ryerson that this was standard practice in the Cult. I
19 again offered my resignation as their counsel. Within weeks,
20 the prep packs were removed from my office by a team of Cult
21 members headed by a Mrs. Joyce Van Dyke. Prior to the break-ins
22 into my office, I received receipts for the prep packs as they
23 were turned over to the Cult team. I have not been able to
24 locate them.

25 c) There was also wholesale destruction of evidence,
26 theft of documents from private persons and attempts to infil-
27 trate the Court chambers of Judges Lilly and Swearingen.
28

1 d) This is but the tip of the iceberg. Many of the
2 documents in this Court's Jury Room show recent attempts by this
3 Cult to infiltrate courthouses, U.S. Government contractors such
4 as Honeywell in Phoenix, to find out what classified projects
5 these contractors were getting from the "Rockefellers" and the
6 "DOD" and other "enemies of mankind".

7 e) I was also informed of a Cult-organized group of
8 vigilantes known as the "minutemen" who were to go beat up
9 dissidents and had in fact done so. I retained no originals of
10 any documents that belonged to the Cult, I simply retained
11 copies, which I am permitted to do. The encrypting diskettes
12 for the Cult computer, were turned over to them prior to the
13 break-ins in my office.

14 f) I also became aware of a plot to obstruct Justice or
15 at the least perpetuate a fraud on the Courts in the form of
16 settlement agreements of numerous pieces of Cult Litigation,
17 which required that the lawyers never take litigation against
18 the Cult in the future, that no-one (lawyers or parties) testify
19 against the Cult, and that all evidence and files be turned over
20 to the Cult for destruction.

21 g) Additionally, I became aware that witnesses such as
22 Bill Franks and others signed contracts to keep quiet about what
23 they knew. In other words they were paid hush money.

24 22. I never engaged in the representation of Aznarans or
25 Mr. Corydon, nor did I impart any confidential "privileged
26 information to them." We have one thing in common, a common
27 criminal enemy -- the Cult -- who the governments of this
28 country have allowed to physically beat its citizens, to betray

1 their confidences, ignore their civil rights and use the
2 Judicial System to Destroy them.

3 23. That I had a difficult time sleeping knowing what I
4 knew, having represented this criminal Cult -- I readily admit.

5 24. From the time I wanted to substitute out of the Cult
6 cases until present, the Cult failed to make payments for
7 services rendered. A fee dispute arose, when questioned by Cult
8 member Carol Martiniano about who would have facts to support my
9 contentions regarding the fee dispute, I informed her Vicki and
10 others would know. Within a few days Vicki called me to tell me
11 that she had received threats from Earle Cooley on the phone,
12 that she better not be remembering the facts the way she was
13 stating them or she would be sued by the Cult. At that time
14 Vicki informed me of the facts surrounding her incarceration and
15 denial of medical treatment at "Happy Valley". I informed her
16 that she had a potential statute of limitations problem, that I
17 probably shouldn't represent her, but would help her find a
18 lawyer. I told her that she had a place to stay if she wanted
19 one -- my home. She, her husband and Ms. McRae came to my home,
20 found a lawyer and sued. To this day, I haven't seen her full
21 complaint, and no one in my office drafted any part of it.

22 25. It was my determination that I had no conflict of
23 interest in the Aznarans matter, but in order to best serve the
24 Aznarans' interests, they should find other counsel -- so the
25 matter could be resolved on the merits, not by default or
26 attrition.

27 26. As a result of Vicki's visit, I met Mr. Corydon,
28 Vicki's friend. I began to gather evidence for my conflict with

1 the Cult since the storm clouds were gathering. I had read
2 Mr. Corydon's Book, L. Ron Hubbard - Messiah or Madman, before
3 meeting Mr. Corydon, found the book both frightening and
4 interesting, and submit the same as exhibit 28. I recommend it
5 to the Court's attention.

6 27. Most of the alleged facts set forth in the Declaration
7 of Peti are outright lies. It is true that Mrs. Peti worked for
8 the firm of Herzig & Yanny for a little more than a year. When
9 she quit, she left in the middle of a business day and never
10 returned, contrary to her statement that she came back to the
11 firm from time to time and that I made damaging statements to
12 her.

13 28. In addition to the above, it is also true that my
14 office has copied the work performed on behalf of the plaintiffs
15 and the work performed by other offices to which our office
16 responded on behalf of plaintiffs. We have retained those
17 copies. It is further true that our office has retained the
18 complete diskettes that contain the work that the Herzig & Yanny
19 firm did for the plaintiffs, most of which has been filed and is
20 therefore subject to public inspection. I have also received
21 communications from plaintiffs containing material which indi-
22 cates that they were engaged in criminal activity. I retained
23 copies of those documents in order to establish that these
24 criminal activities are such as to constitute a waiver of the
25 attorney-client privilege and also establish that this lawsuit
26 and their conduct toward me in initiating it are a part of a
27 common purpose and plan carried out by the plaintiffs against
28 all those people who leave their employment or who leave their

1 church. It is necessary for me to retain those copies to
2 properly defend myself in this action.

3 29. I have had no opportunity to get fully informed advice
4 from my attorney, or from any attorney, as to what I should do
5 with the copies that I formerly retained, which are now held by
6 this Court. I believe that those documents will indicate that
7 the plaintiffs have participated in a consistent conspiracy to
8 obstruct justice and to perpetrate a fraud upon the Court and
9 that by reason thereof, and by reason of the provisions of
10 California Evidence Code §956, such information is not subject
11 to any privilege whatsoever.

12 30. Addressing myself to certain of the specifics of the
13 Dorothy Ann Peti Declaration, my comment is as follows:

14 At no time did I instruct Dorothy Ann Peti or anyone else
15 in the employment of Herzig & Yanny to inflate the billable
16 hours for the plaintiffs, or for any other clients of the
17 office. With reference to Thomas R. Vallier, on numerous
18 occasions, I informed Mr. Vallier that he was either incompetent
19 or had lost sight of the true hours spent on the job, and that I
20 could not bill the client the hours shown on his timesheets, and
21 I drastically reduced the hours billed to the client.

22 31. It is absolutely false that I charged Lisa Wilske's
23 time at other than her normal rate, which ran from various time
24 at \$40 per hour, \$75 per hour, and later, when she finished law
25 school and became an attorney, at \$125 per hour.

26 32. It is not true that Lisa Wilske or anyone else ever
27 asked Ms. Peti to attend any proceeding at the home of Joseph A.
28 Yanny and give an "impression" of conversations with any

1 individual... Most of the time that Ms. Peti was "at" my home
2 was actually spent at a local bar called the "Poopdeck" and, on
3 at least one of the days that she refers to, she called us to
4 come and get her because she was so drunk that she was afraid to
5 leave the bar by herself. On one of those occasions, she bought
6 me a shirt containing an advertisement of the bar, which is
7 still owned by Declarant.

8 33. I knew Vicki Aznaran because she had been the presi-
9 dent of Religious Technology Center, one of the plaintiffs
10 herein, during the time that I represented the plaintiffs.
11 After Ms. Aznaran left the Church, and after I terminated my
12 professional relationship with plaintiffs, I had numerous
13 conversations with her, and she advised me that she had termi-
14 nated her relationship with plaintiffs and that she had been, in
15 effect, kidnapped and taken to the desert, deprived of medical
16 care, forced to go on marches, and finally was able to escape.
17 She said that she was going to come over and discuss the matter
18 with me. During one of the weekends at my home, in addition to
19 the social pleasantries that were exchanged, she asked me if I
20 could represent her in suits against the Church; I stated that I
21 would have to review the matter.

22 34. At that time, I had heard of Mr. Corydon, but I had
23 not met him until he came to visit with Vicki at my home in
24 Hermosa Beach. I had known that he written the book L. Ron
25 Hubbard -- Messiah or Madman?, and that the plaintiffs were
26 extremely angry with him over writing the book, but I knew
27 little about him. At no time did Mr. Corydon tell me he did not
28 have financial resources to hire an attorney. At no time did I

1 discuss those lack of funds or Lisa Wilske's prior participation
2 with the plaintiffs, nor did I ever offer to have Ms. Wilske, or
3 anyone in my office, represent Mr. Corydon. At no time did I
4 have Lisa Wilske or Richard Wynne or anyone else in my office
5 research any issues concerning the Aznaran Complaint. The only
6 research that was done was by Lisa Wilske and Mary Grieco as to
7 the propriety or possibility of our firm representing someone
8 adverse to the plaintiffs. For many reasons, I decided it would
9 be inappropriate to represent the Aznarans.

10 35. Neither I nor anyone else in the office of Herzig &
11 Yanny to my knowledge drafted any portion of the planned or
12 actual Aznaran Complaint, and it is an absolute lie (as is most
13 of the Declaration of Peti) that I was present during the filing
14 of that Complaint. It is also not true that I imparted any
15 confidential material, or any material whatsoever, to the firm
16 of Cummins & White or to any of its members to assist them in
17 the preparation of the Aznaran Complaint.

18 36. It is true that a stack of documents were brought to
19 my home on one of the dates referred to in the Peti Declaration.
20 These documents related to the break-in of government offices by
21 agents of the plaintiffs in 1977 or 1978 which resulted in an
22 action brought by the United States against the plaintiffs, and
23 resulted in nine of the top executives of the Cult, including
24 the wife of L. Ron Hubbard, being convicted and sent to spend
25 time in the Federal penitentiary.

26 37. I felt they were relevant to my impending suit with
27 the Cult in light of the numerous break-ins to my quarters. The
28 fanciful story told by the petitioner in paragraph 21 on pages 6

1 and 7 of . Peti's Declaration is not only false, but it is
2 intended to create an impression which Ms. Peti knows is false.
3 The facts of that matter are absolutely to the contrary.
4 Ms. Peti is well aware that the motion she refers to was pre-
5 pared by the Church at their own offices and was brought to me
6 by Thomas Vallier at Court when I was present during another
7 matter. I read the documents and refused to sign them. I said
8 that they were wrong and were not to be served. I told
9 Mr. Vallier that they were wrong and were not to be served, and
10 he left. If I had known that they had been served, I would
11 certainly have sent out a "notice of non-hearing." I first
12 learned that the document had been served when I received the
13 motion for sanctions. I inquired of Ms. Peti, and she told me
14 that she had received a call from the Church and that they had
15 told her that I had advised them that she should serve the
16 documents. I told her that that was absolutely false. The
17 Church insisted that I oppose the motion for sanctions and I
18 did.

19 38. At no time did I lecture or otherwise inform Corydon
20 or anyone else concerning the actual facts about the plaintiffs'
21 "weaknesses." I was advised and learned of some of those
22 weaknesses, but that knowledge was one of the things that
23 persuaded me not to represent the Aznarans in their suit against
24 the plaintiffs.

25 39. It is true that, after Vicki Aznaran told me the facts
26 of her imprisonment by the plaintiffs, I told her that she might
27 have a statute of limitations problem and that if she was going
28 to bring an action she had better be careful of the time

1 limitation. I also told her that I would recommend some
2 attorneys she could go to. She told me that there had been
3 numerous agreements made between the Church and numerous attor-
4 neys and witnesses wherein they had agreed not to represent
5 anyone who had an interest adverse to the Church and the wit-
6 nesses agreed not to testify for anyone who had a cause of
7 action against the Church.

8 40. I have never seen the full Aznaran Complaint. I am
9 not aware of it ever coming to the office of Herzig & Yanny. I
10 was not aware that this was a possibility until my attorney read
11 that portion of the Ms. Peti statement to me on June 26, 1988,
12 paragraph 24 of the Peti Declaration. Under no circumstances
13 did I assist in the preparation of any Complaint by Aznaran
14 against the Church.

15 41. The Declaration of Vicki Aznaran concerning the
16 retainer fee dispute that I presently have with the plaintiffs
17 came in some time prior to any meeting I had with the Aznarans.
18 That Declaration was taken from my office during one of the many
19 break-ins to my office following my termination as attorney for
20 the Church. During one of those break-ins, which was accom-
21 plished by the use of a crowbar, my individual office was broken
22 into as well.

23 42. Paragraph 28 of Ms. Peti's Declaration is absolutely
24 false, and Ms. Peti must know that it is false. Ms. Peti had
25 nothing to do with the billing at our office. If she had taken
26 the time to make an investigation of that billing, she would
27 have discovered that all of the billing for Lisa Wilske, whether
28 for the Church or any of the clients, was billed at Ms. Wilske's

1 regular rate, and was never billed at Yanny's higher partner
2 rate.

3 43. The allegations of paragraph 31 in Mr. Peti's Declara-
4 tion are vicious and false, and are nothing but deliberate lies
5 intended to place me in a bad light before this Court.

6 44. At this point, I have not had sufficient opportunity
7 to review the extensive documentation filed by the Cult in
8 support of the pending Application.

9 45. As to the Declaration of Mr. Vallier, I can only state
10 that the contents of paragraph 2, appear to be generally correct
11 but the contents of paragraph 3 and 4 are out right perjury. As
12 to paragraph 5, I can only state that there was a break-in into
13 my offices, I have no knowledge of what others believe or
14 stated, that I staged no break-in. The balance of Mr. Vallier's
15 paragraph 5 is a lie. As to paragraph 6 and 7 of Mr. Vallier's
16 Declaration, I can only state that both Peti and Vallier (who
17 are now on the Cult's payroll) are Liars and the implications
18 are false. As to paragraph 8, I did withdraw as counsel and
19 executed substitution of attorney papers which were delivered to
20 the Cult representatives for filing in Court. As to the con-
21 tents of paragraphs 9, 10, 11, 12 and 13, I can only state that
22 there was no "conspiracy," and I have no knowledge of Mr.
23 Vallier's conversations with Messrs. Wynne and Grabowski, and
24 that his alleged conversation with me is a figment of his
25 tortious imagination. The contents of paragraph 14 are also
26 false.

27 46. As to the contents of the Declaration of Warren
28 McShane, I can only state that as to:

1 a) paragraph 3, 4, 5, 6, - the contents are
2 false as far as I know. I never met McShane
3 until 1984.

4 b) The contents of paragraph 7 appears to
5 be generally correct;

6 c) I have no recollection of the allega-
7 tions made in paragraph 8 or 9 of the McShane
8 Declaration, and all my files are with this
9 Court;

10 d) The contents of paragraph 10 appears to
11 be generally correct, except that the dates,
12 and I did represent the Cult in the Litiga-
13 tion specified in paragraph 11.

14 e) As to paragraph 12 and 13, I can only
15 state that Vicki Aznaran was and is my friend
16 (a concept you will not find discussed in the
17 Cult writings of L. Ron Hubbard). In 1985, I
18 was given a \$150,000. non-refundable
19 retainer, "For 1985" not to be applied
20 against billings, as an inducement to begin
21 working nearly full time for the Cult as
22 "co-ordinating attorney". I did submit bills
23 regularly and none of the 1985 retainer was
24 applied against billings. The remainder of
25 paragraphs 13, 14, 15, 16 and 17 are untrue
26 except that I did often reduce my bills to
27 compensate for the quality of the work done
28

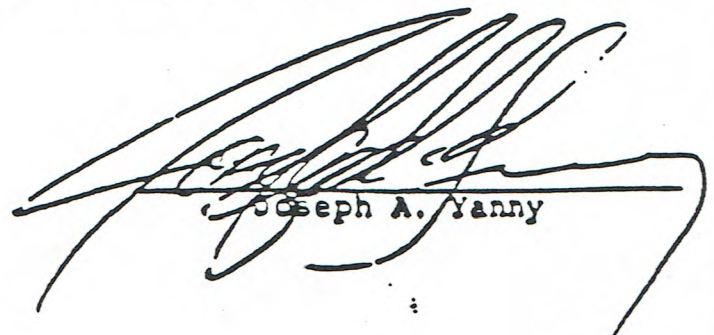
1 L. Olier, who needed three t. s to pass
2 the Bar Exam.

3 f) As to the contents of paragraphs 18-24,
4 I can only state that I have had correspon-
5 dence with Mr. Weitzman, but the balance is
6 either untrue, distorted, or not in my memory
7 banks or records.

8 At no time have I ever conspired with anyone to disclose,
9 nor have I disclosed, nor do I intend to disclose any privileged
10 information pertaining to the Plaintiffs in this lawsuit which
11 was obtained during the course of the prior attorney-client
12 relationship between Plaintiffs and Defendants. I do not intend
13 during the course of this lawsuit, nor at any time hereafter, to
14 aid, counsel, or otherwise participate in the legal representa-
15 tion of Vicki J. Aznaran, Richard Aznaran, and Bent Corydon
16 regarding their lawsuits with Plaintiffs.

17 I hereby declare under penalty of perjury under the laws of
18 the State of California that all of the above is true and
19 correct except as to those matters stated on information, and as
20 to those matters I believe them to be true.

21 Executed at Los Angeles, California on this 13th day of
22 July, 1988.

23
24 
25 Joseph A. Yanny
26
27
28

OU